Patrick Henry

Life, Correspondence, and Speeches

PATRICK HENRY

LIFE, CORRESPONDENCE AND SPEECHES

BY

WILLIAM WIRT HENRY

WITH PORTRAIT

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CONTENTS VOLUME II.

CHAPTER XXV.

PAGE

GOVERNOR OF VIRGINIA.—THIRD TERM.—1778–79 1

Proceedings in Parliament.—Attempted Intervention of Spain.—Terms of Peace Proposed by Congress.—Attitude of France.—Spain Declares War with England.—Philadelphia Evacuated.—Battle of Monmouth.—War Transferred to the Southern States.—Governor Henry Sends Troops to the Relief of Kentucky.—Virginia's Quota to the Continental Army.—Depreciation of the Currency.—Foreign Loan Secured by Governor Henry.—Virginia's Generous Position as to Her Northwestern Territory.—French Treaty Ratified by Virginia.—Expedition Under Colonel Evan Shelby Against the Indians.—Governor Henry Advises the Occupation of the Lower Mississippi.—Collier's Expedition against Virginia.—Vigorous Defence by Governor Henry.—His Humane Treatment of Prisoners.—Criticism on Governor Henry's Administration.—Approval by the Legislature.—He Declines a Re-election.

CHAPTER XXVI.

IN THE LEGISLATURE.—SOUTHERN CAMPAIGN.—1779–80.. 42

Patrick Henry Removes to Henry County.—His Sickness.—Declines a Seat in Congress.—Season of Despondency among American Patriots.—Reverses in the South.—Effects of Depreciated Currency.—Alarm of Washington.—Mutiny in his Army.—Letter of Patrick Henry to Thomas Jefferson.—He Returns to the House of Delegates.—Imparts Activity to its War Measures.—Resists the Design of Congress to Replace the Old Paper Money by New Issues.—Advocates Taxation to Support the Currency.—Return of Lafayette with Promise of Aid from France.—Efficient

PAGE

Measures of Congress upon the Advice of Washington.—Last Attempt of the British to Conquer the West.—Measures of the Virginia Legislature.—Commercial Regulations Proposed by Catharine of Russia.—Proceedings in Parliament.—The War in the South.—Conquest of South Carolina.—Battle of King's Mountain.—General Nathaniel Greene in Command of Southern Army.—Virginia Invaded.—Meeting of Assembly.—Important Services of Patrick Henry as a Member.

CHAPTER XXVII.

CESSION OF THE NORTHWEST TERRITORY.—1780–81 75

Resolution of Congress Requesting Cession of Western Lands.—Contest between Virginia and the Land Companies.—Large Claims of the Latter.—They Appeal to Congress.—Remonstrance of the Virginia Assembly.—Claims of other States to Part of Virginia's Territory.—Action of Maryland.—Policy of Spain.—Attempt to Treat with Her.—The Land Companies Attempt to Bribe Congress.—Offer of Virginia to Cede her Northwestern Territory, and to Yield the Right to Navigate the Mississippi, in order to Secure the Union.—The Conditions Attached Opposed by the Land Companies.—Their Influence upon the Action of Congress.—History of the Offer of Virginia in Congress.—Final Acceptance.—Subsequent Action of the Indiana Company.—The Claim of Virginia to the Northwestern Territory Stated and Defended.

CHAPTER XXVIII.

INVASION OF VIRGINIA.—1781 110

British Fleet Enters the Capes, December 30, 1780.—Capture of Richmond by Arnold, and Destruction of Property.—The British Retire to Portsmouth and are Besieged.—Lafayette Sent to Virginia.—Naval Engagement off the Capes.—General Phillips, in Command of the British, Occupies Petersburg.—Meeting of the Legislature in March, 1781.—Critical Condition of the State.—Indifference of the Northern States.—Mr. Henry Moves a Representation to Congress.—Paper Prepared for the Committee.—Energetic Measures to Meet the Invaders.—Controversy between the

PAGE

Senate and House.—The Carolinas and Georgia Recovered by General Greene.—Cornwallis Marches into Virginia.—The State without Sufficient Arms.—Damaging Raids by the British.—Wayne Joins Lafayette, and the British Retire to Portsmouth.—Spirit of the Virginians.

CHAPTER XXIX.

CLOSE OF THE REVOLUTION.—1781 137

Legislature Meets in Richmond and Adjourns to Charlottesville.—Efficient Measures Carried by Mr. Henry.—Adjournment to Staunton.—Alarm There.—General Thomas Nelson Elected Governor.—Inquiry into the Conduct of Mr. Jefferson as Governor Ordered.—Dissatisfaction with Baron Steuben.—Scheme of a Dictator Proposed.—Mr. Jefferson and the Legislature.—Active War Measures Under the Leadership of Mr. Henry.—Address to Congress.—Number of Virginia Troops.—Charge of John Taylor against Mr. Henry.—Patriotism of Governor Nelson.—Mutiny of Pennsylvania Troops.—Siege of Yorktown.—Surrender of Cornwallis.—Close of the Revolution.—Mr. Henry's Part in it.—Effect upon the Governments in Europe and America.

CHAPTER XXX.

LEGISLATION AFTER THE WAR.—NEGOTIATIONS FOR PEACE.—1781-83 169

Legislature of November, 1781.—Important Bills Introduced by Mr. Henry.—Parliament Determines to End the War.—Letter of General Gates to Mr. Henry.—Legislature of May, 1782.—Movement for Separation of Kentucky and Washington County from Virginia.—Virginia Withdraws Her Consent to the Abandonment of the Free Navigation of the Mississippi.—Movement of Maryland for Closer Relations with Virginia.—Friendly Response of Virginia.—Negotiations at Paris for Peace.—Importance of Boundary Question.—The Northwest Secured by Clark's Conquest.—Terms of Treaty.—Mr. Henry's Policy after Peace.—Controls the Legislation of the State.—Accounts of Some of His Speeches.

CHAPTER XXXI.

PAGE

LEGISLATION.—1783–84 197

Mr. Henry Advocates Internal Improvements and Educational Institutions.—Hampden Sydney College Chartered.—Spread of French Infidelity Dreaded by Mr. Henry.—Decay of Religion.—Scheme to Support Religious Teachers by Taxation, and to Incorporate Churches.—Attitude of the Baptist and Presbyterian Churches.—Fate of the Measures.—Mr. Jefferson's Bill Establishing Religious Freedom Passed.—It Carries out the Bill of Rights.—Reminiscences of Mr. Henry as a Member of the Legislature.—His Humor.—Embarrassments to the Commerce of the State.—Relations to the Indians.—Bill to Encourage Intermarriages with Whites Offered by Mr. Henry.—His Position as to the Northwestern Land.—Is for Strengthening the Power of Congress over Commerce, and in the Matter of Requisitions.

CHAPTER XXXII.

TREATY OF PEACE.—LEGISLATIVE TRIUMPHS.—1783–84 . . 229

Ministry Censured because of the Terms of the Treaty of Peace.—The New Ministry Refuses to Comply with Certain of Its Articles.—Posts and Property Retained.—Mr. Henry Induces the Virginia Legislature to Resent the Conduct of England.—His Attitude as to British Debts.—Defeats Effort to Change State Constitution.—Efforts to Regulate Commerce on the Potomac.—Leading Part of Mr. Henry in Doing Honor to Washington and Lafayette.—Washington's Scheme of Internal Improvements.—Failure of Land Grant to Thomas Paine.—Reminiscences of Mr. Henry's Legislative Career by Judge Spencer Roane.—Description of His Person.—Anecdote of Him by Mr. Madison.—Acquaintance with, and Influence over, the Career of Albert Gallatin.—Mr. Henry's Penetration into Character, and His Knowledge of Mankind.

CHAPTER XXXIII.

PAGE
GOVERNOR OF THE STATE.—FOURTH TERM.—1784–85.... 249

Unanimous Re-election of Mr. Henry as Governor.—Removal of His Family to Chesterfield County.—Death of His Mother.—Her Exalted Christian Character.—Death of His Brother and Aunt.—Style of Living as Governor.—Renewed Correspondence with Richard Henry Lee.—Correspondence with Washington in Reference to the Stock Voted Him by the Legislature.—Causes the Marbles of Washington and Lafayette Ordered by the Legislature to be Executed by Houdon.—Grateful Feelings of Lafayette.—Lewis Littlepage.—His Remarkable Career.—Purchase in France, by the Governor, of Arms for the State.—Visit of John Fitch.—Proposed Steamboat Navigation.—Governor Henry Grants Conditional Pardons, and Gives Birth to the Penitentiary System.—Letter from the Countess of Huntingdon.—Her Plan for Civilizing the Indians.—Approval by Governor Henry and General Washington.—Its Failure in Congress.—The State of Franklin.—Movement to Divide Virginia Headed by Colonel Arthur Campbell.—Wise Course of Governor Henry.—Able and Patriotic Letter in Reference to the State of Franklin.—The Scheme Abandoned.

CHAPTER XXXIV.

GOVERNOR OF THE STATE.—FIFTH TERM.—1785–86..... 280

Election of Governor Henry for Fifth Term.—Inefficiency of the Confederation.—Steps Leading to Its Revisal.—Interference by Spain with the Settlement of the Mississippi Valley.—Indian Hostility Led by McGilvray.—Retention of the Northwestern Posts by the British.—Indian Raids.—Colonel William Christian Killed in One of These.—Beautiful Letter of Governor Henry to Mrs. Christian.—His Appeal to Congress on Behalf of Kentucky.—His Efforts to Protect the Inhabitants on the Failure of Congress to do so.—Scheme of John Jay to Yield the Free Navigation of the Mississippi to Spain for a Term of Years in Negotiating a Treaty.—Action of the Eastern States in Congress.—Important Letter from James Monroe to Governor Henry on this Subject.—Proposed Division of the Union by Northern

PAGE

Men.—Irritating Conduct of Spanish Officials.—Action of Virginia Legislature.—Effect on Governor Henry of the Action of the New England States.—Elected a Delegate to the Proposed Federal Convention.—Declines another Election as Governor.—Condition of His Private Affairs.—Marriage of Two Daughters.—Letter to Mrs. Roane on Her Marriage.

CHAPTER XXXV.

UNITED STATES CONSTITUTION.—1787–88 310

Mr. Henry Declines the Appointment to the Federal Convention.—Washington with Difficulty Prevailed on to Attend.—Important Political Events in the North and West Demonstrating the Weakness of the Confederation.—England and Spain Expecting a Dissolution of the Union.—Meeting of the Convention.—The Plan of Government Proposed by the Virginia Delegates.—The Constitution the Result of Compromises.—Washington Sends Mr. Henry a Copy.—His Reply.—Meeting of Virginia Legislature.—Anxiety as to Mr. Henry's Attitude Toward the Proposed Constitution.—He Declares for Amendments.—He Shapes the Action of the Assembly in Calling a Convention.—Remarkable Exhibition of His Power in Debate, in Defeating the Proposal to Repeal Laws in Conflict with the British Treaty.—Carries Resolutions as to the Mississippi.—Action as to Paper Money and Tariff on Liquors, etc.—Mr. Henry Returns to the Practice of Law.—Discussion of the Federal Constitution.—Position of Washington.—Action of the First State Convention which Met.

CHAPTER XXXVI.

VIRGINIA CONVENTION.—1788 338

Importance of Virginia's Action on the Proposed Constitution.—Contest for Seats in her Convention Meeting of the Body.—Intense Interest in Its Proceedings.—Mission of Colonel Oswald.—Mr. Henry's Letter to General Lamb.—Estimates of Strength of Parties.—Plan of the Anti-federalists.—Proceedings Reported in Shorthand.—Mr. Henry as the Leader of the Opposition to Immediate Ratification.

PAGE

—His Construction of the Constitution.—Course of the Debate.—Attacks Governor Randolph.—Scene with George Nicholas.—Mr. Henry's Greatest Speech.—Tactics of the Several Parties.—The Convention for Amendments.—Concessions of the Federalists.—Form of Ratification Proposed.—Conduct of Mr. Madison.—Mr. Henry Offers Previous Amendments.—Closing Debate.—Storm Scene.—Madison and Randolph Pledge Their Party to Subsequent Amendments.—Last Speech of Mr. Henry in the Convention.—Ratification Carried, and Mr. Henry's Amendments Urged upon Congress.—Washington's Influence Effectual.—Madison and Henry Compared.

CHAPTER XXXVII.

OBJECTIONS TO THE CONSTITUTION.—1788..... 378

Mr. Henry Declares It a Consolidated Government.—Mr. Madison's Definition of It.—The Conflicting Theories.—Mr. Henry's Afterward Adopted by the Supreme Court and Federal Government.—Balance of Power Destroyed.—Want of Responsibility.—Executive Patronage.—Insufficient Checks.—Bill of Rights Proposed.—Its Great Value in the Government.—Rights of Person and of Property.—Religious Freedom.—Limits of Federal Powers Defined.—Proposed Amendments Not Adopted.—Requisitions.—Two-thirds Majority in Congress in Commercial and Navigation Acts.—Restriction as to Elections.—Increase of Pay.—Impeachments.—Term of President.—Jurisdiction of Federal Courts.—Verifications of Mr. Henry's Predictions.—Implied Powers.—Abolition of Slavery.—Military Force Used Against the States.—Interference in Elections.—Improper Use of Money.—The South Sacrificed to the Interest of the Majority.—Tendency to Monarchy.—Conflict of Federal and State Courts.

CHAPTER XXXVIII.

STRUGGLE FOR AMENDMENTS.—1788–89..... 409

Meeting of Legislature in Extra Session.—Governor Clinton's Letter.—Convention of New York.—Recommends Another Federal Convention.—Convention of North Caro-

PAGE

lina.—Demands Previous Amendments.—Mr. Henry's Attitude.—Fears of the Federalists Concerning Him.—Meeting of Legislature in October, 1788.—Course Pursued by Mr. Henry to Obtain Amendments.—Passage Between him and Francis Corbin.—Reply to Governor Clinton's Letter.—Election of Senators.—Mr. Madison's Pledge to Support Amendments.—Mr. Henry's Letter to R. H. Lee, giving Reason for Opposing Madison.—Districting the State.—*Mr. Madison's District.*—Letters of Decius.—Condemned by Federalists.—Dignified Course of Mr. Henry Under the Slanderous Attack.

CHAPTER XXXIX.

AMENDMENTS.—1790–91 440

Mr. Madison is Elected to Congress.—Mr. Henry as a Member of the Electoral College Votes for Washington.—Mr. Madison Moves in Congress for Amendments.—His Fear of Mr. Henry's Influence.—Changed Position of Mr. Madison in Reference to Necessity of Amendments.—Action of Congress on His Motion.—Mr. Henry the Force Behind Mr. Madison.—Correspondence between Mr. Henry and the Virginia Members and Senators.—Measures of First Congress.—Assembly of 1789.—Dissatisfaction with the Action of Congress as to Amendments.—Aid to Chickasaws.—Request for Open Sessions of the United States Senate.—Ratification by North Carolina and Rhode Island.—Mr. Henry Declines a Seat in the United States Senate.—Hamilton's Financial Schemes.—Rise of Parties.—Action of Virginia Legislature in November, 1790.—Final Adoption of the Amendments Proposed by Congress.—Close of Mr. Henry's Political Life.—His Attitude Toward the Federal Government.—The Eleventh Amendment.

CHAPTER XL.

RETURN TO THE BAR.—1787–94 464

Regains His Position at the Bar.—Brilliant Career as an Advocate.—Contest with Edmund Randolph in Carter *vs.* Carter.—The British Debt Cause.—Description of Mr.

PAGE

Henry's Speech, by John Randolph of Roanoke, by Judge Iredell.—Notices of Mr. Henry in Diary of Richard N. Venable.—Family Cares.—Defence of Holland as Related by Judge Roane.—The Turkey Case.—The John Hook Case.—General Andrew Jackson's Tribute.—Mr. Henry's Appearance in a Murder Case, Described by Rev. Conrad Speece.—His Advice to Rev. John Holt Rice.—Distributes Soame Jennings's Book on Christianity.—Removes to Campbell County.—Defends Richard Randolph, Charged with Infanticide.—Dr. Archibald Alexander's Account of Mr. Henry as an Advocate.—Retainer Offered Him by Governor Brooke in the Manor of Leeds Case.—Death of George Mason and Richard Henry Lee.

CHAPTER XLI.

IN PRIVATE LIFE.—1790–94 505

Land Investments.—Treaty Between the United States and the Creek Indians.—Virginia Yazoo Company.—Removal of Mr. Henry to Red Hill.—Description of His New Home.—His Domestic Life.—His Estimate of His Political Associates.—His Religious Life.—Marriage of Two Daughters.—Commencement of French Revolution.—Condition of the Nation.—Different Impressions of Gouverneur Morris and Thomas Jefferson.—Progress of the Revolution.—War between France and England.—Washington's Policy of Neutrality.—Conduct of Genet, the French Minister to the United States.—Effect of European Affairs on American Political Parties.—Questions of Maritime Law.—Jay's Treaty.—The Whiskey Insurrection in Pennsylvania.—Opposition to Washington's Administration.

CHAPTER XLII.

COURTED BY POLITICAL PARTIES.—1790–96 535

Mr. Henry Better Satisfied with the Federal Government.—Supports Washington's Policy of Neutrality.—Alarmed by the Excesses of the French Revolution.—Reverence for Washington.—Attitude Toward Parties.—Correspondence Between Henry Lee and Washington.—Washington De-

PAGE

sires to Engage Mr. Henry in the Service of the United States.—Part Taken in the Matter by Governor Henry Lee. —Mr. Henry Offered a United States Senatorship by Him. —Washington Offers Him the Mission to Spain.—Mr. Jefferson Attempts to Attach Him to His Party through Judge Archibald Stuart.—Renewed Friendship Between Washington and Henry.—Washington Offers Him the Secretaryship of State.—Important Letter on the Occasion.—Mr. Henry's Letter Declining It.—John Marshall's Account of the Matter.—Washington Offers Him the Chief Justiceship. —Desires to Send Him as Minister to France upon the Recall of James Monroe.

CHAPTER XLIII.

KENTUCKY AND VIRGINIA RESOLUTIONS OF 1798.—1796–98. 566

Republican Attacks upon Washington.—Forged Letters. —Betrayal of a Cabinet Paper.—Letter of Mr. Henry to Mrs. Aylett.—Mr. Jefferson's Misrepresentation of Washington and Henry.—Mr. Henry Elected Governor the Sixth Time.—Letter Declining the Office.—His Political Consistency. — Religious Character. — Predicts Result of the French Revolution.—John Adams Elected President.—Relations to Jefferson.—Letter of Jefferson to Philip Mazzei. —Irritating Policy of France.—Failure of the Mission of Pinckney, Marshall, and Gerry.—Preparations for War.— Alien and Sedition Laws.—Kentucky and Virginia Resolutions.—Mr. Henry Disapproves of Them.—Advocates the Election of John Marshall and Henry Lee to Congress.— Letter to Archibald Blair.

CHAPTER XLIV.

CLOSING SCENES.—1798–99. 600

Alarm of General Washington for the Country.—Letter to Mr. Henry Urging Him to Offer for the Legislature.— His Candidacy and Its Effect on Parties.—Appearance at the March County Court of Charlotte.—His Speech to the Assembled People.—First Public Appearance of John Randolph of Roanoke.—Effects of the Kentucky and Virginia

PAGE

Resolutions.—Mr. Madison's Effort to Explain His Work. —Mr. Jefferson's Injustice to Mr. Henry.—Influence over Mr. Wirt.—Difference of Views Between Henry and Jefferson.—Election of Mr. Henry to the House of Delegates.—Appointment as One of the Ministers to France.—His Letter Declining It.—Rapid Decline in Health.—Death-bed. —Grief of His Countrymen.—His Monument.—Growing Reverence for His Character.—His Family.—His Parting Injunction to His Countrymen.

APPENDIX I 633

APPENDIX II 646

APPENDIX III 648

APPENDIX IV 651

LIFE OF PATRICK HENRY.

CHAPTER XXV.

GOVERNOR OF VIRGINIA.—THIRD TERM.—1778-79.

Proceedings in Parliament.—Attempted Intervention of Spain.—Terms of Peace Proposed by Congress.—Attitude of France.—Spain Declares War with England.—Philadelphia Evacuated.—Battle of Monmouth.—War Transferred to the Southern States.—Governor Henry Sends Troops to the Relief of Kentucky.—Virginia's Quota to the Continental Army.—Depreciation of the Currency.—Foreign Loan Secured by Governor Henry.—Virginia's Generous Position as to Her Northwestern Territory.—French Treaty Ratified by Virginia.—Expedition Under Colonel Evan Shelby Against the Indians.—Governor Henry Advises the Occupation of the Lower Mississippi.—Collier's Expedition against Virginia.—Vigorous Defence by Governor Henry.—His Humane Treatment of Prisoners.—Criticism on Governor Henry's Administration.—Approval by the Legislature.—He Declines a Re-election.

THE third term of Governor Henry opened with brighter prospects for the American cause than ever before. A French fleet was on its way to aid in the struggle, and negotiations were in progress which resulted in the accession of Spain to the combination against Great Britain; but Spain acted from the selfish motive of the expected acquisition of Gibraltar and of the Mississippi Valley. In England the war was severely felt. Commerce, which had suffered so much by the loss of America as a market, was now subjected to great risk by the daring of Amer-

ican privateers. The brave and brilliant Paul Jones was insulting the British navy by taking prizes in the Irish Channel. The distress of the nation was described in the House of Lords by the Earl of Coventry in these striking words:

"Our manufacturers are unemployed, starving, and burdensome to their respective parishes. Our commerce is declining, and is carried on upon such risk, and on such high premiums of insurance, as to render it but of small advantage to the merchant, and burdensome to the consumer. Public credit is drawing fast towards annihilation. Our stocks fallen nearly as low as at the conclusion of the late war." [1]

It was believed that had Chatham abated his opposition to American independence, a union of his adherents with the Rockingham whigs might have unseated the North Ministry and restored peace. The death of the great statesman put an end to that hope. No enemy of England could have felt greater relief upon the happening of that event, than did the Ruler whose kingdom he had so gloriously strengthened. Upon the meeting of Parliament, November 26, 1778, the King's speech was marked in its determination to continue the war, and in its bitterness toward France for aiding his "revolted subjects in North America." Upon the address to the throne, long and excited debates were had in both Houses. The speech of the occasion was delivered by Fox, and for eloquence and boldness of invective it was a masterpiece. John Wilkes, who followed him, said of it, "The honorable gentleman, in a di-

[1] Parliamentary History of England, xix., 1282.

vine strain of eloquence scarcely paralleled, never surpassed within these walls, has treated the King's speech with merited indignation. He pronounced it false, demonstrated it to be so, and called it the king's libel on Parliament."[1]

But neither the distress of the nation, nor the eloquence of the opposition, could overcome the ministerial majority, strengthened as it was by hatred to France. The vote upon the address demonstrated that the administration was supported by two-thirds of each House.

Among the members of Parliament were Generals Howe and Burgoyne, Lord Howe and Admiral Keppel, all four seeking vindication; the first three for failures in America, the fourth for permitting the French fleet to sail out of Brest and depart for the United States, without bringing on a decisive action. Sir William Howe, on April 22, 1779, made an elaborate defence of the conduct of his brother and himself,[2] in which he contended that the failure to effect more in America came from the inadequacy of the troops furnished by the ministry, and the neglect of his appeals for reinforcements.

During the winter of 1778–79 and the following spring, the court of Spain was engaged in an effort to effect a settlement of the pending hostilities. The ground of settlement suggested was the securing to England the basin of the St. Lawrence, and the territory northwest of the Ohio, the United States to be bounded by the Alleghanies. Had this been effected, Spain would have claimed as her own the valley of the Mississippi below the mouth of

[1] Parliamentary History of England, xix., 1343.
[2] Idem, xx., 676.

the Ohio. But without discovering her designs, Spain craftily invited the belligerents to remit to her court the points on which they intended to insist.[1] In this she was foiled, the British minister answering, "that while France supported the colonies in rebellion, no negotiation could be entered into."[2]

But the fact that such negotiations were being attempted lulled Congress into inactivity, and encouraged the hope that hostilities would soon cease. That body, at the instance of Gérard, the French minister, entered into the consideration of the terms upon which it would agree to peace. The report of a special committee, on February 23, 1779, fixed the ultimatum of the United States in negotiations for peace at, (1) independence, (2) the Mississippi as the western boundary from Canada to Florida, with its free navigation to the southern boundary, and a free port below, (3) Canada and Nova Scotia as the northern boundary, and (4) the right of fishery on the coasts of Newfoundland.[3] The French minister now sought, by personal appeals to the members, to obtain the relinquishment of the claim to the fisheries, and to the valley and navigation of the Mississippi.[4] In this he succeeded so far as to have the question of the fisheries postponed for a future treaty with England, but the other points were insisted on, and John Jay was sent as a special envoy to Spain.[5]

The court of Spain, loath to see the English Colonies independent republican states, for fear her own colonies might follow their example, yet anx-

[1] Bancroft, x., 164–5. [2] Idem, 16 [illegible] [3] Idem, 214.
[4] Idem, 212. 219, etc.

ious to humble England and to regain Gibraltar, finally threw off the mask, and on June 16, 1779, made a declaration of war against Great Britain, but without entering into alliance with the United States.

When Sir Henry Clinton sailed to supersede General Howe, he brought orders for the prosecution of the war on a different plan from that pursued by his predecessor. He was ordered to abandon Philadelphia, to hold New York and Rhode Island, and to attack the accessible ports along the Atlantic coast, destroying everything of value in his reach. At the same time the Indians along the western frontier, from Detroit to Florida, were to be incited to renew their murderous raids.[1] The plan demonstrated that the threats of the commissioners were not idle words.

In obedience to his orders, made necessary by the expected arrival of the French fleet, Sir Henry Clinton, at the head of 17,000 effective men, evacuated Philadelphia June 17, 1778, and took up his line of march by way of Monmouth to Sandy Hook. Washington at once moved to fall upon his retreating columns. General Charles Lee, who had been exchanged and was again second in command, was ordered to make the attack on June 28, near Monmouth, but instead of doing so shamefully retreated before a body of British troops, without making an effort to check the enemy. Washington coming up, met Lee retreating in great disorder, and was aroused to the highest pitch of passion. He demanded of him, "What is the meaning of this?" in tones which abashed and confused the

[1] Bancroft, x., 123.

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[1] Bancroft, x., 123.

proud and haughty general, and when he stammered out an incoherent reply, he was sent to the rear. Washington himself rallied the men, and posting them to advantage, he first checked and then defeated the pursuing British. Clinton, by abandoning the field before midnight, reached Sandy Hook and New York without further interruption, and Washington thereupon established his lines so as to protect the adjacent country.

Lee's misconduct resulted in a court martial and his disgrace, and thus was the American army finally rid of a pretentious and wayward general, who, as has since been proved, was also a traitor,[1] and in criminal correspondence with the enemy.

In July the French fleet, commanded by the Count D'Estaing, arrived at the Capes of Delaware, and raised the hopes of the American patriots to the highest pitch. These hopes were almost immediately chilled, however, by the failure of a plan of joint attack upon the British force in Rhode Island, and the serious injury to the fleet by a storm, which forced the commander to retire to Boston for repairs. From thence he sailed for the West Indies.

The summer passed without progress in subduing the American States, and a winter campaign was planned for the South, which it was confidently believed would subdue, or allure to British allegiance, all the country south of the Susquehanna.[2] Georgia, the weakest State, was to be first subdued. Accordingly Savannah was attacked by a force from New York, December 29, 1778, and the small American army defending it was defeated. In January fol-

[1] Treason of Charles Lee, by George H. Moore.

[2] Bancroft, x., 283–4.

lowing a British force marched from Florida across lower Georgia, and another took possession of Augusta. The State of Georgia thus seemed to be conquered, and the British army gave itself up to plunder.[1]

The next object of conquest was South Carolina, and General Prevost proceeded to lay siege to Charleston. The brilliant John Rutledge was Governor of the State. Clothed with dictatorial powers, he called out the reserved militia, and threw himself into the city. The approach of General Lincoln, now in command of the Southern Department, caused the British general to retire, and the battle of Stono followed. Though lost to the Americans, it proved them to be genuine soldiers, and Mason's gallant Virginia brigade was particularly mentioned for its bravery and steady action.[2]

Upon entering on the third term of his service, Governor Henry at once applied himself to raising the troops ordered by the Assembly. Brigadier-General Thomas Nelson was commissioned to raise the regiment of cavalry.[3] Colonel George Muter, Lieut. Colonel Nicholas, George Macballé, and Major Charles Porterfield, were commissioned to raise the battalion of infantry for garrison duty in the State.[4] Colonels Edward Stephens, George Slaughter, Lewis Burwell, and Nicholas Cabell, and Majors David Jameson, Edward Garland, Richard Waugh, and William Haly Avery, to recruit the volunteer battalions for the Continental Army.[5] And Francis Smith, and Alexander Baugh, of Chesterfield, John

[1] Bancroft, x., 286. [2] Lee's Memoirs of the War in the South, 131.
[3] Executive Journal, 266. [4] Idem, 278. [5] Idem, 279 and 290.

Lewis, of Pittsylvania, Elisha White and Thomas Richardson, of Hanover, John White, of Louisa, Daniel Barksdale, of Caroline, John Holcombe, of Prince Edward, William Allen, of James City, and Alexander Cummings, of Bedford, to recruit men for the regular Continental service.[1]

The Governor did not hesitate to express his fears that the two thousand volunteers voted for the ensuing campaign could not be raised in time, and it was with a feeling of relief that he laid before the Council, on August 6, a resolution of Congress thanking the Assembly for their zeal, and informing the Executive, that a change in circumstances had rendered the march and services of the cavalry and volunteer infantry at present inexpedient.[2] Orders were at once given to stop the enlistment of men for these battalions.

At the same meeting of Council he laid before them the resolution of Congress of July 25, 1778, deferring the expedition against Detroit, and ordering instead an attack upon the hostile Indian towns near the Ohio River, as had been advised by Governor Henry. The Council thereupon advised the Governor to direct the County Lieutenants of Washington, Montgomery, Botetourt, Augusta, Rockbridge, Rockingham, Greenbrier, Shenandoah, Berkeley, Frederick, Hampshire, Monongalia, Yohogania, and Ohio to furnish, properly equipped, as many men as General McIntosh might demand for the proposed Indian expedition;[3] which was done.

[1] Bancroft, x., 290.

[2] Executive Journal, 303. Colonel Nelson had already reached Philadelphia with his cavalry, and he was sent back. [3] Idem, 303.

Six days afterward the Governor received information which showed that the apparent inactivity of the British in the east, was no indication of quiet on the western border. He learned that an expedition from Detroit was designed against the forts in Kentucky. He at once ordered Colonel Arthur Campbell, Lieutenant of Washington County, who had given the information, to march with a force of not less than one hundred, nor more than one hundred and fifty men from his county, to the relief of the people of Kentucky.[1] The proposed expedition from Detroit was doubtless checked by the operations of Clark in the Illinois country.

By a report of H. Knox, Secretary of War, made May 11, 1790,[2] it appears that Virginia furnished 6,181 men to the Continental army in 1776; that her quota fixed by Congress for 1777 was 10,200 men, of which she had on the Continental rolls 5,744, and furnished besides 5,269 militia; that in 1778 her quota was fixed at 7,830 men, of which she furnished the Continental rolls 5,230, besides 600 as a guard for the Saratoga prisoners, and 2,000 militia; and that in 1779 her quota was 5,742, and she is credited by 3,973 regulars, 600 as a guard for the prisoners and 4,000 militia. If this be correct, and it is believed to be an underestimate, it appears that the efforts of Governor Henry to make up Virginia's quota were remarkably successful considering the difficulties which surrounded him. And when the number of State troops, and of men sent to the Northwest, to the defence of Kentucky, and to the Indian wars are added to the

[1] Executive Journal, 305.

[2] American State Papers, Military Affairs, 1, 14, etc.

Virginians in the regular Continental army, it will appear that the State during Governor Henry's terms had many more men in continuous service than her Continental quota, and this without estimating her militia, so often called out for service in the State, nor the Virginians serving in the regiments of other States.

The fact that her full quota was not credited to her on the continental roll was not peculiar to Virginia,[1] but might be alleged of each of the other States, none of whom were called upon to raise so many troops for their separate State establishments.

An investigation of the facts shows conclusively that Virginia did her whole duty to the common cause, and she is not liable to the charge, sometimes heard, that she failed to do her part of the fighting in the Revolution. She did her part, and more than her part, during the whole war.

The difficulty of raising troops and keeping them in the field was greatly increased, during the third year of Governor Henry's service, by the depreciation of the currency, which increased from a ratio of five to one to that of twenty to one for gold. The alarm which this gave, and the dangers of the hour from this and from divisions among the States, are given in the following interesting letter of Richard Henry Lee to the Governor:

"CHANTILLY, Nov'r 15th 1778.

"MY DEAR SIR: I send you by this opportunity the trial of Gen[l] Lee, which be pleased to let our friends Colo. Mason, Mr. Wythe, and Mr. Jefferson see, after you have read it. I will not anticipate your judgment, the thing speaks fully for itself.

[1] Letter of Washington to Henry, October 7, 1778.

In my public letter to you, I observe that the enemy still continue at N. York. Their reason for doing so is not obvious. Their exposure is almost certain destruction in the West Indies, their exceeding weakness in every part of the world where they have possessions, seems to demand their quitting us for other objects, and this I should suppose they would do if their hopes were not sustained by other causes than the expectation of conquest by force of arms. Division among ourselves, and the precipice on which we stand with our paper money, are, I verily believe, the sources of their hope. The former is bad, but the latter is most seriously dangerous! Already the continental emissions exceed in a sevenfold proportion the sum necessary for medium; the State emissions added, greatly increase the evil. It would be well if this were all, but the forgeries of our currency are still more mischievous. They depreciate not only by increasing the quantity, but by creating universal diffidence concerning the whole paper fabric. In my opinion, these miscreants who forge our money are as much more criminal than most other offenders, as parricide exceeds murder. The mildness of our law will not deter from this tempting vice. Certain Death on conviction seems the least punishment that can be supposed to answer the purpose. I believe most nations have agreed in considering and punishing the contamination of money as the highest crimes against society are considered and punished. Cannot the Assembly be prevailed upon to amend the law on this point, and by means of light horse to secure the arrest and punishment of these offenders, without giving them the opportunity to escape that now they flatter themselves with. I hope, sir, you will pardon my saying so much on this subject, but my anxiety arises from the clear conviction I have, that the loss of our liberty seems at present more

likely to be derived from the state of our currency than from all other causes. Congress is fully sensible of this, and I do suppose, that in order to detect forgeries and reduce the quantity, it will be requested of all the States to call into the Loan Offices the Continental emissions previous to April last, by compulsory laws.

"This is a bold stroke in finance, but necessity, and experience in the Eastern States, sanctify the measure. The next cause that threatens our infant republics, is division among ourselves. Three States yet refuse to confederate: Maryland, Delaware, and Jersey. Indeed New York can scarcely be said to have confederated, since that State has signed with this condition, to be bound in case all the States confederate. Maryland I fear will never come in whilst our claim remains so unlimited to the westward. They affect to fear our power, and they are certainly envious of the wealth they suppose may flow from this source.

"It is not improbable that the secret machinations of our enemies are at the bottom of this. Some of the most heated opponents of our claim say, that if we would fix a reasonable limit, and agree that a new State should be established to the westward of those limits, they would be content to confederate. What do you think, sir, of our proposing the Ohio as a boundary to the westward, and agreeing that the country beyond should be settled for common good, and make a new State, on condition that reasonable compensation should be made us for Dunmore's, Colo. Christian's, and our late expeditions. This might perhaps be agreed to and be taken well as coming freely from us. When we consider the difficulty of republican laws and government piercing so far from the seat of Government, and the benefit in point of economy from having a frontier State to guard us from Indian

wars and the expense they create, I cannot help thinking that upon the whole this would be our wisest course. We should then probably unmask those who found their objection to confederacy upon the extensiveness of our claim, and by having that bond of union fixt, foreclose forever the hopes of our enemies. I have a prospect of paying my respects to you and the Assembly between this and Christmas, if the distracted state of my plantation affairs can soon be put in reasonable order. I am with sincere affection and esteem, dear Sir, your most obedient humble servant,

"RICHARD HENRY LEE."

To His Excellency PATRICK HENRY.

Two days before this letter was written, Governor Henry had sent a communication to the Virginia Assembly representing in the strongest terms the danger to the commonwealth from counterfeiting the currency, and urging that effectual legislation be had to check the evil. This message caused the enactment of a law, making it a felony punishable with death without benefit of clergy to counterfeit the currency, or to pass knowingly counterfeit money, or to have in possession instruments or materials for the purpose of counterfeiting.[1]

In order to sustain the commonwealth amid the serious dangers threatened by the depreciation of paper money, which had not been checked by the creation of the loan offices advised by Congress, the Assembly authorized the Governor to negotiate a foreign loan of one million pounds, in money and military stores. Efforts were made by the Executive to effect this through Doctor William Lee, the

[1] Hening, ix., 541.

agent of the State, residing in Europe, and Captain Lemaire, a special agent employed for the purpose. Lemaire had been sent over March 3, 1778, and had proved himself an active and successful agent. By February, 1779, he had procured a shipment of artillery and munitions of war, by the French Government, amounting to £256,633, 7s. 10d., but because of a misunderstanding about payment, these were detained till May 26, too late to reach Virginia before the end of Governor Henry's term.[1] The effort to purchase small arms was less successful, owing to the unfortunate temper of William Lee. The tale is told in the following letter of Benjamin Franklin, to whom the Governor had appealed for assistance in the mission of Captain Lemaire.

"PASSY, 26th February, 1779.

"SIR: I had the honor of receiving your Excellency's letter of March 3, 1778, by Captain Lemaire, acquainting me, that the state of Virginia has desired Mr. William Lee, your agent, to procure a quantity of arms and Military stores, and requesting me to assist him with my influence in obtaining them on credit.

"Being glad of any opportunity of serving Virginia, and showing my regard to the request of a person whom I so highly esteem, and Mr. William Lee being absent, I found immediately three different merchants here, men of fortune, who were each of them willing to undertake furnishing the whole, and giving the credit desired. But Mr. Arthur Lee being understood to have taken the management of the affair into his own hands, one of the three soon after refused to have anything to do with it; a sec-

[1] See the correspondence between Arthur Lee and the French minister touching this matter. Life of A. Lee, i., 413-25.

ond, whose letter to me I enclose, apprehending difficulties from Mr. Lee's temper, required my name and Mr. Adams's to the agreement, which he supposes Mr. Lee did not like, as his offer was not accepted. I know not why the offer of the third was not taken. I was afterward not at all consulted in the business.

"Poor Lemaire was sent about Germany to find goods and credit, which consumed a great deal of time to little purpose. Several of the manufacturers wrote to me, that they would furnish him on my promise of payment. I referred them to Mr. Lee. On his return, Mr. Lee and he differed about his expenses. He complained frequently to me of Mr. Lee's not supplying him with necessary subsistance, and treating him with great haughtiness and insolence. I thought him really attentive to his duty, and not well used, but I avoided meddling with his affairs, to avoid if possible being engaged in quarrels myself. Mr. Lee in fine contracted with Messrs. Penet and Dacosta to supply great part of the goods. They too have differed, and I have several letters of complaints from those gentlemen; but I cannot remedy them, for I cannot change Mr. Lee's temper.

"They have offered to send the things you want, which he refused, on my account; but, not knowing whether he has not provided them elsewhere, or in what light he may look upon my concerning myself with what he takes to be his business, I dare not meddle, being charged by the congress to endeavour at maintaining a good understanding with their other servants, which is indeed a hard task with some of them. I hope however that you will at length be provided with what you want, which I think might have been long since, if the affair had not been in hands, of which men of honor and candor here are generally averse to dealing with, as

not caring to hazard quarrels and abuses in the settlements of their accounts. Our public affairs at this court continue to go on well. Peace is soon expected in Germany, and we hope Spain is now near declaring against our enemies. I have the honor to be, with great respect, &c.

"B. FRANKLIN."

TO PATRICK HENRY,
Governor of Virginia.

In addition to Captain Lemaire, Philip Mazzei, who returned to Europe early in 1779, was commissioned to borrow for the State the money needed. Through the efforts of these and others employed by the State, large loans were effected, which greatly aided Virginia in maintaining her military establishment during the remaining years of the Revolution.

On November 14, 1778, the day before the letter of Richard Henry Lee was penned, Governor Henry wrote to the Virginia delegates in Congress, informing them of the success of the expedition of George Rogers Clark in capturing the western posts. One can hardly believe that this brilliant success of the Virginia militia was received with joy by the delegates of those States which had shown a jealousy of Virginia's claim to the western territory, before it was strengthened by this conquest.

Maryland was the most conspicuous of these. Her delegates had refused to sign the articles of confederation unless the western territory was given up to the Confederation. The delay in signing the articles was seized upon in England and America, by the Tory party, as a sure indication of a fatal weakness, foreboding an early dissolution of the

union. The French government manifested great uneasiness on the subject, and the estimate of Colonel Lee as to its effect upon the cause was most just. His letter contains the first suggestion of a satisfactory settlement of this important matter. But the Legislature of Virginia was not yet ready to adopt his proposal. The fact that her title was disputed, and the knowledge that the attack upon it was led by men who were interested in the extensive purchases of her territory from the Indians, whose claims she had refused to recognize, made the Legislature unwilling to yield aught of her rights.[1] But the rights of the State were maintained in no ungenerous spirit. On December 18, 1778, the House adopted a resolution instructing the Virginia delegates to propose in Congress that the articles of confederation be binding on the States which had ratified them; and also the following:

"*Resolved, nem. con.*, That it be an instruction to the Virginia delegates, to inform Congress of the resolutions of this General Assembly, respecting purchases of lands from any Indian nation.

"And whereas this Assembly hath come to believe, that sundry citizens of some of the United States, were and are connected and concerned with some of the king of Great Britain's late governors in America, as well as with sundry noblemen and others, subjects of the said King, in the purchase of a very large tract of land from the Indians, on the northwest side of the Ohio River, within the territory of Virginia.

"*Resolved*, also, that the said delegates be instructed to use their endeavors in Congress, to cause

[1] Hening, x., p. 50.

an inquiry to be made concerning the said purchase, and whether any, and what citizens of any of the United States were, or are, concerned therein.

"The more effectually to enable Congress to comply with the promise of a bounty in lands to the officers and soldiers of the army, on continental establishment.

"*Resolved*, That this commonwealth will, in conjunction with such other of the United States, as have unappropriated back lands, furnish out of its territory, between the rivers Ohio and Mississippi, in such proportion as shall hereafter be adjusted and settled by Congress, its proper quota or proportion of such lands, without any purchase money, to the troops on continental establishment of such of the United States as already have acceded, or shall within such time given, or indefinite, as to Congress shall seem best, accede to the Confederation of the United States, and who have not within their own respective territory, unappropriated lands for that purpose; and that a copy of this resolve be forthwith transmitted to the Virginia delegates, to be by them communicated to Congress."[1]

On April 7, 1779, the Legislature of Connecticut united in the proposal of Virginia that the Articles should be binding on those States ratifying, but Congress did not act upon the suggestion, nor upon the request of Virginia to investigate the interest of Tories in the Western Territory.

In this condition of affairs, and to enable the State to raise her needed revenue, the Legislature, at the May session, 1779, passed an act establishing a land office, and offering for sale the lands south of the Ohio.

[1] House Journal, 124.

In the meanwhile there were suggestions by the enemies of America that, as the Articles of Confederation had not been adopted, there was no power in Congress to make treaties, and the French alliance was a nullity.

To put an end to this pretension, so far as Virginia was concerned, the Assembly, on June 2, 1779, formally ratified the treaty with France, and declared it binding on the State. By this treaty the possessions of the States, and their additions and conquests during the war, were guaranteed to them by France.[1]

The experience of Governor Henry during this term convinced him more than ever of the want of executive ability in Congress. We have seen that the expedition against Detroit was planned too late to be accomplished before winter. As great blunders were committed in the plans for the South.

On September 25, Congress, in expectation of an attack upon South Carolina and Georgia, called upon Virginia and North Carolina to furnish aid to those States at once. Virginia was asked for one thousand militia for this purpose. Upon receiving the requisition Governor Henry referred the matter to the Assembly, then in session, for the requisite authority, the existing law only authorizing him to march the militia out of the State to assist a State already attacked.[2] This authority was given, but before it could be exercised, the enemy's fleet turned northward, and the order was suspended by Congress. A requisition now came to furnish all the armed galleys fit for service, for an attack upon

[1] Article XI. of the Treaty of Alliance. [2] Executive Journal, 326.

East Florida. Orders were given accordingly, but as the vessels were to rendezvous at Charleston, the Governor and council were perplexed at receiving by the next post a requisition for one thousand militia to aid in the defence of South Carolina and Georgia. That they might have some explanation of these seemingly inconsistent orders, Governor Henry wrote the following letter.

"WMSBURG Novr 28, 1778.

"Sir: Your favor of the 16th instant is come to hand together with the acts of Congress of the 26th of August for establishing provision for soldiers and sailors maimed or disabled in the public service—of the 26th of September for organizing the Treasury, a proclamation for a general Thanksgiving, & three copies of the Alliance between his most Christian Majesty & these United States.

"I lost no time in laying your letter before the Privy Council, & in deliberating with them on the subject of sending 1,000 Militia to Charles Town S. Carolina. I beg leave to assure Congress of the great zeal of every member of the Executive here, to give full efficacy to their designs on every occasion. But on the present, I am very sorry to observe, that obstacles great, & I fear unsurmountable, are opposed to the immediate march of the men. Upon Requisition to the Deputy Quarter Master General in this Department, for Tents, Kettles, Blankets & Waggons, he informs me they cannot be had. The season when the march must begin, will be severe & inclement, & without the forementioned necessaries impracticable to men indifferently clad and equipped, as they are in the present general scarcity of clothes.

"The Council as well as myself are not a little

perplexed, on comparing this Requisition, to defend South Carolina & Georgia from the assaults of the enemy with that made a few Days past for Gallies to conquer East Florida. The Gallies have orders to rendezvous at Charles Town, which I was taught to consider as a place of acknowledged safety; and I beg leave to observe that there seems some Degree of Inconsistency in marching militia such a distance in the depth of winter under the want of necessaries to defend a place which the former measures seem to declare safe.

"The Act of Assembly whereby it is made lawful to order their march confines the operations to measures merely Defensive to a Sister State, & of whose Danger there is certain information received.

"However, as Congress have not been pleased to explain the matters herein alluded to, & altho. a good deal of perplexity remains with me on the subject, I have by advice of the Privy Council given orders for 1,000 men to be instantly got into readiness to march to Charles Town, and they will march as soon as they are furnished with Tents, Kettles, and Waggons. In the meantime if intelligence is received, that their march is essential to the preservation of either of the States of S. Carolina or Georgia, the men will encounter every difficulty, & have orders to proceed in the best way they can, without waiting to be supplied with those necessaries commonly afforded to Troops even on a Summer's March.

"I have to beg that Congress will please to remember the State of Embarrassment in which I must necessarily remain with Respect to the ordering Gallies to Charles Town in their way to invade Florida, while the militia are getting ready to defend the States bordering on it, & that they will please to favour me with the earliest Intelligence of

every Circumstance that is to influence the measures either offensive or Defensive.

"I have the honor to be,
"Sir,
"Yr. mo. obedt. & very Hble servant,
"P. HENRY."

To HENRY LAURENS,
President of Congress.

"P.S. The Despatches to Govr Caswell are sent by a safe hand."

The proposed withdrawal of his armed ships, so necessary for the protection of the commerce of his State, caused Governor Henry to apply to Congress, on December 4, 1778, for naval assistance. In his letter he showed that the protection of Chesapeake Bay was of great importance to Pennsylvania, Maryland, Virginia, and North Carolina, and, without stating that to be his object, demonstrated the folly of depriving that important bay of its fleet for the proposed attack upon Florida, and thus defeated the project. When the long-expected blow fell upon Savannah, on December 29, 1778, it found only fifteen hundred men, regulars and militia, ready for its defence, owing to the inefficiency of Congress.

The British, after its capture, were soon able to open communication with the Cherokees and other tribes, and to supply them with munitions of war. The savages only waited now to hear of the march of Hamilton from Detroit southward, to join him in his proposed attack upon Kentucky and the western border of Virginia. Before they moved, however, a memorable expedition was organized and successfully executed, which completely thwarted their plans. This expedition was announced to General

Washington by Governor Henry, in a letter of March 13, 1779, in the following words: "About five hundred militia are ordered down the Tennessee River to chastise some new settlements of renegade Cherokees that infest our southwestern frontier and prevent our navigation on that river, from which we began to hope for great advantages."

The renegade Cherokees referred to were the inhabitants of the Chickamauga towns, which had been recently extended from the mouth of Chickamauga Creek fifty miles down the Tennessee. The inhabitants of these towns had refused to join in the treaty with Colonel Christian, and had received in their midst the murderers, thieves, and banditti of adjacent Indian tribes, as well as the Tory desperadoes who had fled from the States.[1] They perpetrated the greatest outrages upon the frontier; and with over a thousand fighting men, and Dragging Canoe as their chief, they believed themselves secure from punishment. Governor Henry commissioned the brave Colonel Evan Shelby to chastise, and, if possible, to break up these outlaws. He was to command five hundred Virginians, and as many North Carolinians. The Virginians were taken from the southwestern counties, and they exhibited great ardor for the service.[2] Many of the men furnished by North Carolina were recruited from Virginia;[3] the others were mostly from the Watauga settlement. It is said that the necessary supplies and transportation were furnished by the exertions, and on the personal responsibility, of

[1] Ramsey's History of Tennessee, 186.

[2] Letter of Arthur Campbell to Governor Henry, March 15, 1779, vol. iii., 231.

[3] Idem.

Isaac Shelby, who had been in the quartermaster service of Virginia. The great depreciation of the currency had so straitened the resources of the two States, that this personal responsibility had to be assumed to give success to the expedition.

The little army assembled at the mouth of Big Creek, near the present town of Rogersville, in Tennessee, and besides some six hundred militia it embraced 150 men under Colonel Montgomery,[1] who had been enlisted to reinforce Clark, but were now temporarily diverted. It was determined to transport the army to the Indian villages by water, instead of by overland march, and the trees of the forest were soon shaped into canoes and boats. On April 10, 1779, all was ready, and embarking, they descended the river, which was swollen by a freshet. For three hundred miles, through a wilderness, they floated, so swiftly and silently that the savages had no warning of their approach. On April 13 they reached the mouth of Chickamauga Creek, near the lair of Dragging Canoe. Here they captured an Indian, whom they forced to guide them to the quarters of the chief. Completely surprised, the Indians fled from their settlements, with the loss of forty warriors. Shelby now burnt their towns and destroyed their provisions. He captured stores and goods valued at £20,000, which had been collected by the British agents for distribution at the grand council, to be had with Hamilton and the Northern Indians at the mouth of the Tennessee.[2]

This expedition left the Chickamaugas impotent

[1] Rear Guard of The Revolution, 169.
[2] Ramsey's History of Tennessee, 187.

for war, and checked the disposition of the Cherokees to unite in the attack upon the frontier; while the union of the Northern and Southern Indians had been effectually prevented by the capture of Hamilton the preceding month.

Thus it was the good fortune of Governor Henry, by the two expeditions he sent out, the one under Clark and the other under Shelby, to defeat the murderous design of the Royal Government to combine the Indian tribes in savage war upon the West, while the British regulars were engaging the American forces in the East. The wisdom displayed in selecting the commanders of these expeditions insured their success, and was in strong contrast with the want of judgment shown by Congress in the selection of commanders for the western frontier and the South.

A striking instance of Governor Henry's foresight and wisdom is found in his letter to General Washington, of March 13, 1779, in a passage relating to the lower Mississippi. It is as follows:

"Forts Natchez and Morishac are again in the enemy's hands; and from thence they infest and ruin our trade on the Mississippi, on which river the Spaniards wish to open a very interesting commerce with us. I have requested Congress to authorize the conquest of these two posts, as the possession of them will give a colorable pretence to retain all West Florida when a treaty may be opened, and in the meantime, ruin our trade in that quarter, which would otherwise be so beneficial. I can get no answer to this application, although it is interesting to our back settlements, and not more than four hundred men required for the service."

Had the suggestion of Governor Henry been followed, the United States would have been in possession of the posts commanding the lower Mississippi above New Orleans when Spain declared war with Great Britain. After that declaration Spain seized upon these posts herself, and in consequence retained possession of the Floridas at the peace.

While Virginia was conducting her brilliant campaigns against the western foe, the British commander was arranging an expedition against her sea-coast, which proved to be most damaging in its results. The great extent of her water front rendered it impossible to afford complete protection from the attacks of an enemy in command of the sea. All that could be done under the circumstances surrounding the State, was to fortify some of the most important points, and with this view a regiment of artillery had been enlisted and properly posted. The most important fortification was Fort Nelson, erected on the western side of Elizabeth River, half a mile below Portsmouth, which was intended as a protection to Norfolk, Portsmouth, and the Navy Yard of the State at Gosport. Major Thomas Matthews was in command of this post, which was manned by about 150 men, of whom less than 100 were regulars, and was furnished with sufficient cannon to defend it against any attack from the water which was likely to be made. On the evening of May 8, 1779, a fleet of about 35 sail, under Admiral Sir George Collier, three days from New York, entered the Chesapeake Bay, having on board General Matthews and 1,800 men, besides artillery.

The expedition had not been expected, and found Virginia unprepared to resist it at once. On the 10th, after a warm cannonade, a landing was effected below the fort which made it necessary to withdraw the garrison, as the fort was in no condition to resist an attack from land and sea. Major Matthews retreated with his handful of men to the Dismal Swamp near by, after destroying a fine ship ready for launching, and two French merchantmen, one loaded with goods and the other with tobacco. The British were now left free to ravage the country, and they destroyed an immense amount of property. After occupying Portsmouth, Gosport, and Norfolk, and destroying a large quantity of naval and other stores, they proceeded to Suffolk, near by, where there were large collections of provisions, merchandise, and other stores for the Continental Army. These, with the town, were burnt on the 15th, and the invaders then retired before the Virginia forces which now began to appear in their neighborhood. Before leaving the Capes, the Otter, man-of-war, with several armed vessels, were sent up the Bay. These destroyed a large quantity of tobacco and other property along the shore, and retired before troops could be gathered to oppose them.

The whole fleet, with General Matthews and his men on board, sailed for New York on May 26, having been in Virginia sixteen days. In that time they had inflicted damage which they estimated at one million pounds, and had nearly destroyed the Virginia Navy. They claimed to have taken or destroyed one hundred and thirty-

seven sail of vessels.[1] The behavior of the British in Virginia was but little better than that of the savage foe on the western frontier.

On May 13, Colonel Lawson wrote from Smithfield, in Isle of Wight County, to Governor Henry: "I presume your Excellency by this time is pretty well informed of the strength and movements of the enemy. From accounts which I have received, the cruel and horrid depredations and rapine committed on the unfortunate and defenceless inhabitants who have fallen within their reach, exceed almost anything yet heard of within their circle of tragic display of savage barbarity. Household furniture, stock of all kind, houses, and in short almost every species of perishable property are effectually destroyed, with unrelenting fury, by those devils incarnate; murder, rapine, rape, violence, fill up the dark catalogue of their detestable transactions. They surprised and took a small body of Frenchmen at the Great Bridge, whom they murdered immediately on the spot, to the amount of seven. The feelings of humanity are deeply wounded with reflection on the various pointed cruelties exercised toward our suffering countrymen, and call aloud for the most vigorous and spirited exertions. The militia at this place, on being informed that arms were coming down for them, are much spirited up, and profess the greatest desire of revenge and retaliation."

In another letter, he wrote: "On my way down (from Smithfield toward Suffolk), I met numbers

[1] See British account of this expedition in Virginia Historical Magazine, iv., 181; and Virginia account, Girardin, 332, etc.

of the unfortunate and distressed inhabitants, flying from the rapid approach of the enemy, with such circumstances of distress as language cannot paint. I feel no pleasure in enumerating and dwelling upon the distresses of our unhappy country-men and fellow-creatures—but on the present occasion they exceed anything in imagination. The enemy are now in possession of Suffolk, a part of which is actually in flames, and the whole will probably be so in a small time."

No sooner did the enemy appear in the Bay than the Governor took active steps to defend the State. The regular State troops were put in requisition, and a call was made for the militia from the counties nearest the points exposed to attack. By May 19, between two and three thousand militia had responded, and were under arms. In response to the resolution of Congress of February 2, about two thousand men raised for the Continental service were being prepared to march to the relief of South Carolina. The Legislature of the State, which had met on May 3, passed a resolution on the 10th, requesting General Scott, who was in command of these Continental recruits, to march them to Williamsburg to aid in the defence of the State. On the 17th, a resolution was passed requesting General Scott to summon to his aid the portion of Colonel Baylor's regiment of horse which was stationed at Winchester. By the 20th, however, it became apparent that the militia and State regulars would be sufficient to protect the State from further injury, and the Legislature directed the Continental recruits and the militia previously called out to aid South Carolina, about one thou-

sand,[1] to march at once to the southward. The following letter of Governor Henry touching this invasion is of interest.

"WMSBURGH, May 19th, 1779.

"DEAR SIR: Yesterday I received your last favor by express and laid it before the Assembly. The enemy are here and I suppose them the same embarkation you mention. Their number is about two thousand land forces. Their ships 1, 64, the Raisonable, the Rainbow, 44, the Otter a new sloop, and one or two other sloops and some privateers. The rest are transports, in number about 15, making in all about 35 sail. They took Portsmouth with little opposition, our force there being under 100 Regulars. Four or five vessels of value and some force were lost, one of which fell into the enemy's hands. From thence they proceeded to Suffolk last Friday, where they burnt the town and all the continental possessions there, about I believe 1200 barrels of pork. No flour was destroyed, nor did they get anything they could carry off except the plunder of houses, which they indiscriminately robbed and despoiled of everything valuable, and then set fire to many. They retreated back to Portsmouth where they now are and as yet have not destroyed the town. It is, however, expected daily to share the fate of Suffolk. Our militia could not be embodied in time to attack the ravagers on their march, but we have now 2000 or 3000 in arms, and I trust we shall be pretty secure in these parts against their future operations. But the extent of our shores hinders the possibility of defending all places. Seven Frenchmen, it is said and believed, have been murdered in cold blood. Others add that they were even strangled by the

[1] See Letter of Patrick Henry to George Washington, March 13, 1779. Vol. iii., 229.

British. I shall take care to investigate that matter and inform Congress if I find it true. Our Assembly have called General Scott and the new recruits to our aid. Yesterday also Bland's cavalry were sent for here. Will it not disgrace our country thus to cry out for aid against this band of robbers? However the Assembly have done it and I must submit.

"Govr Hamilton of Detroit is a prisoner with the judge of that country, several captains, lieutenants, and all the British who accompanied Hamilton in his conquest of the Wabash. Our brave Col^{o}. Clark (sent out from our militia) with 100 Virginians besieged the Governor in a strong fort with several hundreds, and with small arms alone fairly took the whole corps prisoners and sent them into our interior country. This is a most gallant action and I trust will secure our frontiers in great measure. The goods taken by Clark are said to be of immense amount, and I hope will influence the Indians to espouse our interests. Detroit now totters; and if Clark had a few of McIntosh's forces the place would be ours directly. I've lately sent the French there all the State papers, translated into their language, by the hands of a priest who I believe has been very active. I cannot give you the other particulars of Clark's success, his messenger to me being killed and the letters torn by the Indians.

"Adieu, my dear sir. May you continue your labors for the public good, which has been so much forwarded by you for so long a time.

"Yrs. in haste,

"P. HENRY."

To RICHARD HENRY LEE,

The barbarities of the troops engaged in this invasion caused the Assembly to pass the following resolution on May 20, 1779.

"*Resolved*, That the Governor and Council be desired to remonstrate with the commanding officer of the British troops now in this State, against the cruel and barbarous manner in which he is waging war against the good people of this commonwealth, by prosecuting it with fire and every other cruelty unknown to civilized nations by custom or law."

It is doubtful whether this remonstrance had any effect, and retaliation was soon recognized as the only recourse left. Indeed the action of the commanding officers was in obedience to the requirement of the British Government, which openly avowed, through its commissioners, that it would destroy what it could not enjoy. The threatening manifesto of the commissioners was the subject of a noble protest in the House of Lords,[1] and was stoutly defended by the ministry.

The evidence is overwhelming that the policy of Great Britain was not only to destroy the property of the Americans, but to withhold from them, as long as possible, the rights accorded to belligerents by civilized nations. Hence the long-delayed arrangements for exchange, and the cruel treatment of American prisoners, which was made the subject of more than one protest. In striking contrast was the action of Virginia in her treatment of British prisoners and subjects residing within her bounds. Only a few days before the destructive raid of Collier and Matthews, Governor Henry had generously yielded to the request of General Philips, of the Saratoga prisoners, who being in a guarded camp near Charlottesville, desired permission to return the civilities extended the officers by some of

[1] Parliamentary History, xx., 43-6.

the gentlemen in the neighborhood. The reply of the Governor is reported in the following extract from a letter of General Philips to Colonel Theoderick Bland, in command of the guard.

"COLONEL CARLTON'S HOUSE, May 10th, 1779.

"SIR: I yesterday received a letter from Governor Henry, dated the 29th of April, from which I take the liberty of sending you the following extract:

"'From the orders you have been pleased to give Mr. Hoatesly, I am perfectly satisfied of your strict attention to propriety in whatever relates to that department, which, under a contrary conduct might be the source of so much uneasiness and jealousy. But my ideas do by no means go so far as to interrupt that social intercourse, which strangers, in the predicament of your corps, have a right to expect from a people at war with your nation. In the progress of it, I earnestly wish to evince that humanity and generosity which accord with the professions hitherto made to you. To say that the civilities you have received must not be acknowledged by something expressive of a sense of them, might be considered as forbidding the exercise of that hospitality which our country gentlemen in general show to strangers. You will therefore, sir, consider yourself at liberty to express your sense of any civilities shown you by those gentlemen of Virginia, whom you please to consider as on a social footing with you, in such manner as is most agreeable to yourself.'"

These prisoners being in the neighborhood of Mr. Jefferson, excited his interest, and a letter from him to the Governor, of March 27, 1779, asking that they be permitted to remain where they were, because of

the inconvenience and injury a removal would inflict upon them, met with a ready response. No more striking contrast to the brutal conduct of the British Government could be desired than is found in the generous conduct of these eminent Virginians.

Among the correspondence of this date, only one letter has been preserved which reflects upon the Virginia authorities for the disasters of this attack from the sea. It is from the pen of St. George Tucker, and is dated June 6, 1779. The writer, in referring to Jefferson, then just elected Governor, says :[1]

"I wish his excellency's activity may be equal to the abilities he possesses in so eminent a degree. In that case we may boast of having the greatest man on the continent at the helm. But if he should tread in the steps of his predecessor, there is not much to be expected from the brightest talents. Did the enemy know how very defenceless we are at present, a very small addition to their late force would be sufficient to commit the greatest ravages throughout the country. It is a melancholy fact that there were not arms enough to put in the hands of the few militia who were called down on the late occasion; of those which were to be had, a great number were not fit for use. Nor was there by any means a sufficiency of ammunition or camp utensils of any kind. In short, never was a country in a more shabby situation; for our fortifications and marine, on which more than a million have been thrown away, are in no capacity to render any service to us; nor have we any standing force to give the smallest check to an approaching enemy. In two days after the departure of the fleet, they might

[1] Letter to Colonel Theoderick Bland, Jr. Bland Papers, vol. ii., 21.

have returned and found nobody to oppose them. Such wisdom, energy, and foresight do our leaders display on every occasion."

This criticism is not alone of Governor Henry, but of the Legislature as well. It implies neglect of duty in not having sufficient arms, ammunition, and camp equipage for the forces called out, and in not having a standing army sufficient to check such an invasion.

The Executive journal shows continual effort on the part of the Governor to provide arms and ammunition of war for the State, not only from the manufactories established by law in the State, but from Europe. Large quantities were provided, but these, not sufficient even for the State, were constantly asked for by Congress, and generally given by the Legislature for the general cause. As late as April 13, 1779, Congress had requested of Virginia and obtained one thousand stand of arms,[1] "for the purpose of arming the forces destined for the defence of South Carolina and Georgia."

As to keeping a standing army sufficient to meet any attack which might be made from the sea, or to keep the invaders in check long enough to enable the militia to be called out, the State was never in a situation to do this. The utmost energy of those in authority was taxed to raise soldiers for the Continental service, and for the State force kept in the field. To have kept a larger standing army on State account was not deemed practicable, and the Legislature had not attempted it; indeed that body had not approved of Governor Henry's keeping a

[1] Congressional Journal.

force for the defence of Williamsburg as he proposed in 1776. Besides, much of the stores in the State belonged to Congress, and if they were to be protected by a standing army, it should have been a Continental force. The Legislature, who knew best what the Governor did, and his resources, to whom in fact, he communicated the steps he had taken on the appearance of the invaders, did not give the least indication of censure of his conduct, but on the contrary, showed their appreciation of him by a formal vote of approbation, and by electing him to Congress when no longer eligible as Governor. A very different fate awaited his successor, from whom Mr. Tucker expected so much.

But in truth the coast of Virginia is indefensible from an attack by a superior naval force. This was demonstrated during the succeeding administration of Mr. Jefferson, who had warning of the Arnold invasion, and in the wars that have occurred since the Revolution. Had the French fleet not abandoned our coast, the expedition of Matthews and Collier would not have been undertaken, or, if undertaken, would have been arrested at sea. The British fleet was confessedly in a bad condition, "scarcely three ships among them were in a condition of service, being very foul for want of cleaning, and all very ill manned."[1]

But St. George Tucker was at that time in no situation to render a fair verdict upon Governor Henry's administration, as he was laboring under what he considered a personal grievance at his hands. This he admitted in a letter to William Wirt, February 10, 1805.[2] The dislike of Governor

[1] Virginia Historical Register, vol. iv., 183. [2] MS.

Henry, which he then confessed, was produced by his reception of him in 1777, after his services as agent for the State in Charleston in purchasing indigo and shipping it to be exchanged for arms. He says on his return he was forced to wait upon the Council to get a warrant for £500, which he had advanced for the State. This is his account of what happened. "I believe I attended twice, before I had the honor of admittance to the council board, when Governor Henry received me like a great man; I was not asked to sit down, I was not thanked for my zeal and expedition, or for advancing my money. Mr. Henry made some remarks upon the high price I had given for the Indigo—said it was more than the State had bought it for before (which was very true, for depreciation had then begun), and that I appeared to have been too much in a hurry to make the purchase. I felt indignation flash from my eyes, and I feel it at my heart at this moment. I am therefore an unfit person to draw an exact portrait of Mr. Henry, or to give a fair estimate of his character."

It is evident that the young man's pride was unconsciously touched by Governor Henry, who looking only to the interest of the State, was disposed to criticise where he was expected to compliment. It is due to both parties to add another extract from this letter of Judge Tucker. Speaking of being thrown for the first time socially with Mr. Henry, in 1792, he says: "His manners were the perfection of urbanity; his conversation various, entertaining, instructive, and fascinating. I parted from him with infinite regret, and forgot for the whole time I was with him, that I had so many years borne in

mind an expression which might not have been intended to wound me, as it did."

The Executive Journal contains indisputable evidence of the great executive ability of Governor Henry, and justifies the legislature of his State in re-electing him time and again without opposition to the Executive chair, and General Washington for complimenting him on his "zeal and vigor." As the end of the year for which he was last elected approached, a discussion arose as to his eligibility for another term. It was urged by some who desired a continuance of his services, that his first election, not having been by delegates who were themselves elected under the constitution, should not be counted in estimating the three terms to which the Constitution limited the Executive service. But Mr. Henry cut these discussions short by sending to the speaker of the House of Delegates the following letter:

"May 28th, 1779.

"SIR: The term for which I had the honor to be elected governor by the late assembly being just about to expire, and the constitution, as I think, making me ineligible to that office, I take the liberty to communicate to the assembly through you, sir, my intention to retire in four or five days.

"I have thought it necessary to give this notification of my design, in order that the assembly may have the earliest opportunity of deliberating upon the choice of a successor to me in office.

"With great regard,
"I have the honor to be, sir,
"Your most obedient servant,
"P. HENRY."

To the SPEAKER OF THE HOUSE OF DELEGATES.

The Assembly proceeded on June 1, to appoint his successor, when Mr. Jefferson was elected by a close vote. On the first ballot the vote stood 55 for Mr. Jefferson, 38 for John Page, and 32 for General Nelson. On the second ballot it stood 67 for Mr. Jefferson and 61 for Mr. Page.[1]

On the same day the Senate journal shows the following action:

"*Resolved, nem. con.:* That the thanks of this House be given to Patrick Henry, esq., late Governor of this com'th, for his faithful discharge of that important trust, and his uniform endeavors to promote the true interests of this State, and of all America.

"*Resolved, nem. con.:* That this just tribute of applause be presented to Mr. Henry, through a joint committee of this House; and that Messrs. John Jones, Lee, Adams, Harrison, Matthews, and Ellzey be the said committee."

On the next day Mr. John Jones, from the committee, reported the following answer of Mr. Henry:

"GENTLEMEN: The unanimous approbation which the Senate have been pleased to give my public conduct in the vote which you are pleased to communicate, confers the highest obligation on me. I entreat you to convey to that honorable House, my cordial acknowledgments, and to assure them that the signal honor they have done me shall ever be held in grateful remembrance."

On the same day, June 2, similar action was taken by the House of Delegates, and Messrs. Mun-

[1] House Journal, p. 29.

ford, Page, Tazewell and (James) Henry were appointed to present the resolutions.[1] The journal contains the following notice of his answer:

"Mr. Munford, from the committee appointed to wait on Patrick Henry, Esq., and to present him with the resolutions of this House respecting his conduct while Governor of this commonwealth, reported that the Committee had, according to order, attended Mr. Henry with the same, and that he was pleased to return the following answer thereto: 'GENTLEMEN, The House of Delegates have done me very great honor in the vote expressive of their approbation of my public conduct.

"'I beg the favor of you, gentlemen, to convey to that honorable House my most cordial acknowledgments, and to assure them that I shall ever retain a grateful remembrance of the high honor they have conferred on me.'"

That these resolutions of the two Houses were not mere empty compliments, is shown by their electing Mr. Henry, one of the delegates to Congress for the term beginning November 1, 1779.

Acting upon the recommendation of Governor Henry, the Assembly constituted a Board of Auditors, at the October session, 1778, and a Board of War at the May session, 1779, but the relief which they gave the Executive came too late to be enjoyed by him.

Among the Acts of Assembly during his third term the most notable were "For preventing the further importation of slaves," and "For establish-

[1] The Journal of the House has a blank where the resolutions of approbation should have been recorded. The failure of the clerk to insert them has caused their loss.

ing a Court of Appeals," both passed at the October session, 1778.[1]

The Governor's salary, first fixed at £1,000, was raised in October, 1777, to £1,500, and in October, 1778, to £3,000; but this advance in nominal amount was not in the ratio of the depreciation of the currency, and the salary was not sufficient to pay the necessary expenses incident to the office.

[1] Hening, ix., 470.

CHAPTER XXVI.

IN THE LEGISLATURE.—SOUTHERN CAMPAIGN.—1779-80.

Patrick Henry Removes to Henry County.—His Sickness.—Declines a Seat in Congress.—Season of Despondency among American Patriots.—Reverses in the South.—Effects of Depreciated Currency.—Alarm of Washington.—Mutiny in his Army.—Letter of Patrick Henry to Thomas Jefferson.—He Returns to the House of Delegates.—Imparts Activity to its War Measures.—Resists the Design of Congress to Replace the Old Paper Money by New Issues.—Advocates Taxation to Support the Currency.—Return of Lafayette with Promise of Aid from France.—Efficient Measures of Congress upon the Advice of Washington.—Last Attempt of the British to Conquer the West.—Measures of the Virginia Legislature.—Commercial Regulations Proposed by Catharine of Russia.—Proceedings in Parliament.—The War in the South.—Conquest of South Carolina.—Battle of King's Mountain.—General Nathaniel Greene in Command of Southern Army.—Virginia Invaded.—Meeting of Assembly.—Important Services of Patrick Henry as a Member.

WITHIN a few days after the close of his term, Mr. Henry left Richmond with his family for Henry County, where he took up his residence upon his Leatherwood estate. He found the land largely in the occupation of squatters, who were only removed after much trouble. He carried with him, and settled on a part of his estate, his son-in-law, Mr. Fontaine, who, with his family, became permanent residents of the county. Mr. Henry's residence was about seven miles from the Court House, on the road leading to Danville. It is described as "situate on the waters of the famous Leatherwood

Creek, surrounded on several sides by beautiful hill views, with the creek twisting itself through them, and high mountains at a distance." His object in making his home so far in the interior, and among a people so lacking in the culture of the capital, seems to have been twofold: to place his family in a country which would be free from British raids, and to get into a climate free from malarial fevers. He had a severe attack of sickness soon after reaching his new home, however, which was doubtless the further development of the disease with which he had been suffering in Williamsburg.

On June 17, 1779, the Assembly elected him one of the delegates to Congress for the term commencing November following. To the communication informing him of his election, he returned the following answer:

"HENRY COUNTY, Oct. 18th 1779.

"SIR: The vote of assembly appointing me a member of congress never reached my hands until several months after it passed. However a tedious illness has prevented me from all attentions to business, until lately; and now I am circumstanced so as to make my attendance on congress impossible. I beg you will please to inform the general assembly of this, in order that another member may be chosen in my stead.

"I have the honor to be with every great regard

"Sir,

"Your most obedient servant,

"P. HENRY."

"P.S. I have written another letter to you to the above purpose, but as that may miscarry, I trouble you with this."

HON'BLE BENJA. HARRISON, ESQ.,
Speaker of the House of Delegates.

The following entry in the family Bible explains the circumstances alluded to in this letter:

"Sarah Butler Henry, born January 4, 1780."

The year 1779 and the winter of 1779–80 were seasons of peculiar despondency and danger to the American cause. The accession of Spain to the open enemies of Great Britain, and her attack upon Gibraltar, aroused deep feeling in England, and the King showed himself more determined than ever to prosecute the American war, in regard to which Lord North had begun to hesitate. Clinton remained intrenched in New York, sending out occasional expeditions against unprotected points, which proved harassing and destructive; Washington continued near the city on watch, but was not strong enough to attack. The British were reminded however of the metal of their foe, by the brilliant attack of General Wayne upon Stony Point, on the Hudson, July 16, and of Major Henry Lee upon Paulus Hook, August 19. The real seat of war had been now transferred to the South. There General Lincoln, re-enforced by the Virginia regiments of horse under Colonels Bland and Baylor, detached from Washington's army; by the new Virginia recruits for the Continental line; and by a body of militia from Virginia and North Carolina, concerted with the French admiral, then stationed in the West Indies, a combined attack upon Savannah. An attempt to carry the place by storm on October 9, failed, and resulted in the abandonment of the siege, the French returning to the West Indies, and General Lincoln to South Carolina.

Sir Henry Clinton in the meanwhile, having

received fresh troops from England, headed an expedition against Charleston, which sailed from New York December 26, 1779. General Lincoln risked his army, largely composed of Virginians, in its defence, and was forced to capitulate on May 12, 1780, surrendering about 2,000 men of the Continental line, and 500 militia, besides 1,000 seamen, 400 pieces of ordnance, and a large supply of military and naval stores. The Americans lost in addition all the shipping in the harbor. This was a heavy blow, and not only deepened the gloom already pervading America, but greatly weakened confidence in her cause in Europe.

But the greatest source of danger was the continued and rapid depreciation of the currency, and the consequent corruption of morals among the people. This was heightened by the inefficiency of Congress, in which few of the leaders in the Revolution remained. Washington saw the danger, and his great soul seemed almost despondent while he attempted to arouse his countrymen.

On March 27, 1779, he wrote to George Mason:

"I view things very differently, I fear, from what people in general do, who seem to think that the contest is at an end, and to make money, and to get places, the only thing now remaining to do. I have seen without despondency (even for a moment) the hours which America has styled her gloomy ones, but I have beheld no day since the commencement of hostilities, that I have thought her liberties in such imminent danger as at present. Friends and foes seem now to combine to pull down the goodly fabric we have hitherto been raising at the expense of so much time, blood, and treasure—

and unless the bodies politic will exert themselves to bring things back to first principles, correct abuses, and punish our internal foes, inevitable ruin must follow. Indeed we seem to be verging so fast to destruction, that I am filled with sensations to which I have been a stranger till within these three months. Our enemy behold with exultation and joy, how effectually we labor for their benefit, and from being in a state of absolute despair, and on the point of evacuating America, are now on tiptoe. Nothing, therefore in my judgment, can save us, but a total reformation in our conduct, or some decisive turn to affairs in Europe. The former, alas! to our shame be it spoken, is less likely to happen than the latter, as it is now consistent with the views of the speculators—various tribes of money makers and stock jobbers of all denominations, to continue the war for their own private emolument, without considering that their avarice and thirst for gain must plunge everything (including themselves) in our common ruin. . . . I cannot refrain lamenting in the most poignant terms, the fatal policy too prevalent in most of the states, of employing their ablest men at home in posts of honor or profit, till the great national interests are fixed upon a solid basis. . . . I allude to no particular state, nor do I mean to cast reflections upon any one of them—nor ought I, it may be said, to do so upon their representatives; but as it is a fact too notorious to be concealed, that Congress is rent by party, that much business of a trifling nature and personal concernment withdraws their attention from matters of great national moment at this critical period—when it is also known that idleness and dissipation take the place of close attention and application, no man who wishes well to the liberties of his country and desires to see its rights established, can avoid cry-

ing out, where are our men of abilities? why do they not come forth to save their country? Let this voice, my dear sir, call upon you, Jefferson, and others. Do not, from a mistaken opinion that we are about to sit down under our own vine, and own fig-tree, let our hitherto noble struggle end in ignominy. Believe me when I tell you there is danger of it. I have pretty good reasons for thinking that administration a little while ago, had resolved to give the matter up and negotiate a peace with us upon almost any terms; but I shall be much mistaken if they do not now, from the present state of our currency, dissensions, and other circumstances, push matters to the utmost extremity. Nothing, I am sure, will prevent it, but the interposition of Spain, and their disappointed hopes from Russia."[1]

Spain did interpose, and Russia refused aid to Great Britain, and thus the cause of America was strengthened; but the evils flowing from a wretched currency and a weak Congress continued to jeopardize the issue. Washington's strong shoulders, however, continued to bear the burden of the Revolution, while he urged Congress and his countrymen to do their duty. His army, badly clothed and badly fed, passed through an exceptionally cold winter at Morristown, where their sufferings resulted in the mutiny of two Connecticut regiments in May, 1780, which only the personal influence of Washington could quell.

It was during the despondency which pervaded the country in the winter of 1779–80, that Mr. Henry received a communication from Governor Jefferson, to which he replied in the following letter, which indicates how deeply he was affected by the situation of affairs. Doubtless his feeble

[1] Virginia Historical Register, v., 96.

health was in some measure the cause of the despondent tone in which he now for the first time writes, but when the situation of the country depressed Washington, others might well be alarmed.

"LEATHERWOOD, Feb. 15, 1780.

"DEAR SIR: I return many thanks for your favour by Mr. Sanders. The kind notice you were pleased to take of me was particularly obliging, as I have scarcely heard a word of public matters since I moved up in the retirement where I live. I have had many anxieties for our commonwealth, principally occasioned by the depreciation of our money. To judge by this, which somebody has called the pulse of the State, I have feared that our body politic was dangerously sick. God forbid it may not be unto death. But I cannot forbear thinking, the present increase of prices is in great part owing to a kind of habit which is now of four or five years growth, which is fostered by a mistaken avarice, and like other habits hard to part with—for there is really very little money hereabouts. What you say of the practices of our disguised tories perfectly agrees with my own observation, and the attempts to raise prejudices against the French, I know, were begun when I lived below. What gave me the utmost pain was to see some men, indeed very many, who were thought good whigs, keep company with the miscreants, wretches, who, I am satisfied, were labouring for our destruction. This countenance shewn them is of fatal tendency. They should be shunned and execrated, and this is the only way to supply the place of legal conviction and punishment. But this is an effort of virtue, small as it seems, of which our countrymen are not capable. Indeed, I will own to you, my dear sir, that observing this impunity, and even respect, which some

wicked individuals have met with, while their guilt was clear as the sun, has sickened me, and made me sometimes wish to be in retirement for the rest of my life. I will, however, be down on the next assembly, if I am chosen. My health, I am satisfied, will never again permit a close application to sedentary business, and I even doubt whether I can remain below long enough to serve in the assembly. I will, however, make the trial. But tell me, do you remember any instance where tyranny was destroyed and freedom established on its ruins, among a people possessing so small a share of virtue and public spirit? I recollect none, and this more than the British arms makes me fearful of final success, without a reform. But when or how this is to be effected, I have not the means of judging. I most sincerely wish you health and prosperity. If you can spare time to drop me a line now and then, it will be highly obliging to, Dear Sir, your affectionate friend & obt Servt,

"P. HENRY."

To His Excellency THOMAS JEFFERSON,
At Richmond.

It need hardly be said that the people of Henry County were proud to have Patrick Henry as one of their delegates in the next assembly. The House met May 1, but Mr. Henry's name does not appear in the journal till the 18th, when he was placed on the committee to bring in a bill to amend the law relating to warehouses. On the next day he was placed on the committee to prepare a bill for the more general diffusion of knowledge, and was elected by the House one of the nine constituting a committee of Ways and Means, the most important committee of the body in the then critical condition of affairs. So important was this com-

mittee that its selection was not trusted to the Speaker. Within a few days we find him on a committee for inquiring into and settling the accounts of the State with the United States; on a committee for preparing a bill to repeal that part of the sequestration act which authorized debtors of British subjects to pay their dues into the treasury; and on three committees respecting the duties of high sheriffs and grand juries. These appointments show how he was valued as a working member, and that neither his feeble health nor his late exalted position, prevented him from doing his full share of the drudgery of the body, during the short time he was able to sit in it.

His return to the Assembly was hailed with delight throughout the State, for of all leaders he was the one most implicitly trusted. As a leader of the House he had in previous years shown himself without a rival, but now that he reappeared with the experience and honors of the chief magistracy superadded to his genius, he controlled the body with absolute sway, and this though he had as colleagues, and often as opponents, such great men as Richard Henry Lee and George Mason.

The alarm for the country expressed in the letter of Mr. Henry to Governor Jefferson worked no despondency in his mind, but from the moment he re-entered the Legislature of his State we find its war measures indicating a renewed activity and the broadest patriotism. The intensity of his nature was evidently imparted to the body. Within the twenty days he sat this session, arms were ordered to be sent to North Carolina to furnish her troops;

the Governor was empowered to impress horses upon which to mount the Maryland troops ordered to South Carolina, and wagons to transport their baggage; a large body of the militia of the State was ordered to march to the aid of South Carolina; a camp of five thousand men was directed to be formed, and kept convenient, to aid the Southern States, or to protect Virginia from invasion; the Governor was empowered to take charge of the foundry at Westham, on the James River; and he was also directed to appoint commissioners, to examine into the amount of provisions in each county, and after allowing enough for the support of the several families for the year, to impress the sur plus for public use; the public arms were ordered to be repaired and made fit for use, and provision was made for the workmen needed; Congress was addressed upon the subject of the war being transferred to the South, was informed of the exertions put forth by Virginia to defend herself and her sister Southern States, and was urged to send speedily a strong Continental force South, and to aid Virginia in furnishing arms to North Carolina.

The important question of the currency came up for discussion upon the presentation of the resolutions of Congress adopted March 18, 1780. These resolutions contained a plan for righting the currency which was dictated by despair. Already Congress had issued over two hundred and sixty millions of dollars of paper money,[1] and the several States had issued as much more, while no adequate provision had been made for the redemption of

[1] Green's Historical View, Table vi., p. 457.

either issue. In spite of every effort to keep up its value, by laws requiring it to be taken as though it were specie, it had steadily fallen, till it was now worth only one-fortieth of specie, and could no longer be relied on to purchase food for the army. On February 25, Congress, recognizing this fact, called on the several States to furnish the supplies needed for the ensuing campaign in kind, and in fixed quotas. On March 18, following, having pledged that not over $40,000,000 more should be issued, they proposed to the States to continue to bring into the Continental treasury, till April, 1781, fifteen millions of dollars in paper money monthly, or its equivalent in specie at forty to one. The bills to be brought in to be destroyed, and new bills, one-twentieth in amount, to be issued instead, to carry five per cent. per annum interest, and to be redeemable within six years in specie. The new bills to be issued by the States severally, and guaranteed by the United States, and to be taken as specie.

The scheme involved the discrediting by the Government itself, of obligations it had time and again solemnly declared would be paid in full, and a settling of old promises to pay at one-twentieth of their face value, by new promises to pay, which had no more substantial basis to rest upon than those now admitted to be about worthless. From Edmund Randolph we learn, that when the resolutions of Congress were introduced into the Virginia Legislature, "George Mason and Richard Henry Lee advocated them, as being the only expedient remaining for the restoration of public credit. Patrick Henry poured forth all his eloquence in op-

position."[1] The journal shows that the scheme proposed by Mr. Henry as a substitute was:

"1st. That ample and certain funds ought to be established for sinking the quota of the Continental debt due from this State in fifteen years.

"2d. That certain funds ought to be established, for furnishing to the Continent the quota of this State, for the support of the war for the current year.

"3d. That a specific tax ought to be laid for the use of the Continent, in full proportion to the abilities of the people."[2]

Mr. Henry's counter-proposals certainly had the merit of keeping faith with the public creditors, and strengthening public credit by taxation, the only way possible of saving paper money from utter destruction. He carried them by a vote of fifty-nine to twenty-five, a great triumph when we consider that the defeated plan was proposed by Congress, and advocated by Mason and Lee.

On the next day Mr. Henry obtained leave of absence for the remainder of the session, and was not again in his seat. As he had anticipated, his health had not been sufficiently restored to undergo the fatigue of the session. Some time after he left the body the plan of Congress was again brought forward, and was adopted. His prediction proved too true. The plan failed to stop the depreciation of the currency, which was now sixty to one, and which continued to increase till May 31, 1781, when it reached five hundred to one, and both the new and old issues ceased to circulate.[3] It was claimed that

[1] MS. History of Virginia. [2] Journal for June 6, 1780. p. 36.
[3] Green's Historical View, Table vii., p. 457.

every day added to the currency of paper money, however great the depreciation, was so much gained for the struggle; and this is true: but the problem before the councils of the nation was, how best to sustain paper money as currency, and there seems, in the light of history, hardly a doubt that the plan proposed by Mr. Henry would have been the wisest.

The scheme of Congress was based upon the idea, that the depreciation was due to the issues being in excess of the needs of the country for purposes of currency. This was only a part of the truth. The greatest cause of the depreciation was the belief of the people that no adequate provisions had been made for the redemption of the currency. The plan of Mr. Henry was to reduce the amount in circulation, and at the same time to provide certain funds for the support of the war. Could this plan have been carried out, the currency would have been brought back to a sound basis.

It is remarkable that in the two great revolutionary struggles which have been attempted since this period, the experience of our American law-makers of 1780 should have been so little regarded. In the French Revolution the assignats had the same history of over-issue and depreciation, and a similar effort was made to call them in at a fixed rate of depreciation, and to substitute in their stead mandats, a reduced issue of paper money. Both went down. In the late civil war in the United States, the Confederate States issued treasury notes which ran the same course, and the same remedy was attempted with a similar result, the rapid depreciation of both issues.

But, notwithstanding the increasing troubles with the currency, the affairs of America were putting on a more hopeful aspect. On April 27, Lafayette returned from a visit to France, where he had gone in the interest of the United States, bringing the welcome promise of a French fleet of six men-of-war and six thousand regular troops, to be despatched during the spring to the aid of America. The committee of Congress, in conjunction with the commander-in-chief, devised wise plans for the amelioration of the service. The patriotism of the people was aroused anew, and manifested itself in a more ready compliance with the public demands. The ladies of Philadelphia led the way in devoting their jewels to the relief of the army, and the ladies of Virginia followed their example.[1] A bank was established in Philadelphia to facilitate the purchase of needed army supplies. The action of the Virginia Legislature gave assurance that all of her reserved force would be brought out; and encouraging responses came from other States to the appeals of Washington and Congress to fill up their several quotas, so that with the French army they might be strong enough to put an end to the war. We, for the first time in many months, find Washington hopeful. On June 27, 1780, he wrote to Governor Trumbull, urging compliance with the measures recommended by the Committee of Congress, and added: "As I always speak to your Excellency in the confidence of friendship, I shall not scruple to confess that the prevailing politics for a considerable time past have filled me with inexpressible anxiety and apprehension, and have uniformly appeared to

[1] Jefferson's Works, i., 244.

me to threaten the subversion of our independence. I hope a period to them is now arrived, and that a change of measures will save us from ruin." [1]

Soon he received intelligence of the retreat of the forces under Captain Bird, sent out from Detroit to conduct an Indian expedition against Kentucky. This was a part of a deep-laid plan of the British Cabinet for the campaign of 1780. General Campbell was to move from Pensacola, enter the Mississippi, and capture New Orleans and other Spanish settlements, while Clinton and Cornwallis were attacking Charleston. At Natchez, Campbell was to be met by an Indian force descending the river, who were expected to capture St. Louis and St. Genevieve on their way down. The combined force was to recapture western North Carolina, Kentucky, and the Northwest. Letters captured by General George Rogers Clark and Governor Galvez revealed the plan, which they at once took steps to defeat. Galvez, as we have seen, struck the first blow, and took several British posts, thus preventing Campbell from performing his part of the plan. The raid upon St. Louis was defeated by the energy of Clark, who at once hurried back to Kentucky in the disguise of an Indian. Raising one thousand men, he followed the retreating forces of Bird, who, having captured two stockades at the fork of Licking River, rapidly recrossed the Ohio. It need hardly be added that Clark severely punished the invaders. This was the last attempt of the British to conquer the West.[2]

[1] Sparks's Writings of Washington, vii., 93.

[2] See a valuable paper in the Atlantic Monthly for November, 1889, by Dr. William F. Poole, reviewing Roosevelt's, "The Winning of the West."

Before leaving the House, Mr. Henry had an opportunity of returning the compliment paid him in 1778 by Mr. Jefferson, by being made chairman of the committee appointed to inform him of his re-election to the office of governor. Mr. Jefferson, however, had not been so fortunate in the circumstances of his re-election, having met with a decided opposition.[1]

It was doubtless at this session that the following incident occurred, which showed that in all of his fierce patriotism Mr. Henry never failed to be just. The Reverend Christopher McCrae, a Scotchman, a minister of the Episcopal Church, and a most excellent man, was reticent of his political opinions, and was therefore suspected by some of being a Tory. He suffered persecution in consequence at the hands of some of the citizens of Cumberland County, where he then resided. His daughter, in giving an account of this to Bishop Meade, wrote:

"A petition was sent to the Legislature praying that he, M^r^ M^c^Crae, might be banished. Patrick Henry instantly arose, and said that there were many fictitious names on that paper; that he knew M^r^ M^c^Crae intimately, and that if he was banished they would lose one of their best citizens; he hoped nothing would be done till he could send an express to Cumberland, who returned with a counter-petition, signed by the most respectable portion of the community, praying that he might remain with them, which was granted."[2]

Among the important measures enacted during the spring session after Mr. Henry left his seat, was

[1] Journal for June 1 and 2, 1780, 30, 31.

[2] Old Churches and Families of Virginia, ii., 36, note.

the ratification of the boundary line with Pennsylvania agreed on as a compromise by the commissioners of the two States. This was an extension of Mason and Dixon's line due west five degrees from the Delaware River, for the southern boundary of Pennsylvania, and from the western extremity, a meridian to the northern limit of the State, as the western boundary. This was a material change in the charter line, which made the western boundary a reproduction of the line of the Delaware River on the east. The change gave Pittsburg to Pennsylvania, and left for Virginia a narrow strip of land between Pennsylvania and the Ohio River, since styled the Pan-handle.

In Europe affairs were favorable to America. The overbearing conduct of England on the sea toward neutrals, which had so long characterized her, and which was so grievous to the commerce of Europe, produced an unexpected result. On February 26, 1780, Catherine II., of Russia, made public certain principles which she declared it her purpose to adopt, and which she invited all Europe to aid her in maintaining. They were that neutral ships shall enjoy a free navigation from port to port, and on the coasts of the belligerent powers; free ships shall make free all goods except contraband; contraband shall be arms and ammunitions of war, and nothing else; no port shall be deemed blockaded unless the enemy's ships, in adequate numbers, are near enough to make entry dangerous.[1] This great advance in maritime rights was generally approved by the States of Europe, and their agreement was known as "The Armed Neutrality."

[1] Bancroft, x., 281.

The large carrying trade of the Dutch made the adhesion of the Netherlands to these principles particularly objectionable to Great Britain, and it soon resulted in open war between the two countries, which commenced in February, 1781, by the seizure of the island of St. Eustatius by the British. Thus the prediction of Mr. Henry as to France, Spain, and Holland joining the Colonies in their struggle, made before the war commenced, was fully verified.

In Parliament the opposition to Lord North's administration was increasing in strength. On April 6, 1780, Mr. Dunning moved in the House of Commons, sitting as a committee of the whole, "That it is the opinion of this committee, that it is necessary to declare that the influence of the crown has increased, is increasing, and ought to be diminished." This was carried by a vote of 233 to 215.[1] Mr. Dunning then moved a further resolution asserting the right of Parliament "to examine into and correct abuses in the expenditure of the civil list revenues, as well as in every other branch of the public revenue." This was carried by a vote of 215 to 213.[2] The decaying power of the ministry was reinvigorated, however, by an unexpected event, a tumult which threatened the subversion of all government, and called to its aid all lovers of order. On June 2, Lord George Gordon presented a petition from the Protestant Association, signed by nearly 120,000 persons, of whom it was estimated near 60,000 accompanied him to the lobby of the House, asking for the repeal of an act, passed two years before, relaxing the penalties against Papists. The presence of so large a body was of itself

[1] Parliamentary History, xxi., 367. [2] Idem, 386.

a menace to Parliament, but, as was to have been expected, they soon became riotous and insulting to members, and were only dispersed by the interference of troops.[1] This occurrence threw a damper upon all endeavors to reform the corruptions of the government. On July 8, the body was prorogued to August 24. It was then further prorogued, and on September 1 it was dissolved, the ministry being afraid to trust it again. The proclamation for dissolution took the country by surprise, and the short time allowed for the new elections placed the opposition, who were not in the secret, at a great disadvantage. Many of them were absent from their constituencies and were unable to return in time to attend to their interests. By this trick of the Ministry the elections went greatly more in favor of the court than they would otherwise have done. The new Parliament assembled October 31, 1780, and were met by a speech from the throne, which, referring to the late successes in Georgia and South Carolina, drew from them an augury of "a happy conclusion" to the war. The divisions upon the address of thanks in reply, showed the strength of parties to be, in the Lords, 68 for, and 23 against, and in the Commons, 213 for, and 130 against government.

On May 30, 1781, Mr. Hartley moved for leave to bring in a bill to restore peace with America. Lord North declined to debate the question, on the ground that it had been moved in two successive sessions, and been voted down. Mr. Fox, however, made one of his great speeches in its support, in which, reviewing the course of the ministry and the

[1] Parliamentary History, xxi., 654, etc.

conduct of the war, he predicted that independence would have to be granted, and he charged on the ministry that they were only prolonging the struggle for the selfish purpose of retaining office. The motion was defeated by a vote of 72 for, and 106 against it.

On June 12, Mr. Fox moved for "a committee to take into consideration the state of the American war," basing his motion on the report of Lord Cornwallis of his operations in North Carolina, ending in his retiring to Wilmington. This gave rise to a spirited debate, in which William Pitt took part, declaring his sympathy with his distinguished father in his opposition to the war. The division showed 99 for, and 172 against, the motion. These votes indicated that a large number of the Commons were then ready to grant independence to America.

While Mr. Henry was recruiting his shattered health at his Leatherwood estate, in 1780, the British were dealing heavy blows to the Southern States for whom Virginia was putting forth every exertion. Governor Jefferson, with the powers granted him under the acts of the Legislature, was soon enabled to replace the Virginia troops taken at Charleston, but he could only do so by fresh levies of militia. On June 11, he wrote to General Washington, that twenty-five hundred men would move on the 19th under General Edward Stevens, of Culpepper; and he added: "Could arms be furnished, I think this State and North Carolina would embody from ten to fifteen thousand militia immediately, and more if necessary." The members of Congress from the extreme South insisted on General Washington taking command of that de-

partment in person, as the enemy was evidently bending his energies for the subjugation of the Southern States. This proposal was resisted by some of the northern members, and the impression began to be current that the northern members had determined to sacrifice the two most southern States. Of course, such a suspicion was productive of the greatest animosity among the members.[1]

With a lack of judgment too often displayed, Congress selected General Gates to succeed the unfortunate Lincoln, and he assumed command in June. Besides the fresh troops raised he had the gallant Maryland and Delaware lines. Within two months afterward, on August 16, the battle of Camden was fought, in which the American army was nearly annihilated. This battle cannot be mentioned without a feeling of mortification at the conduct of the Virginia and North Carolina militia, which gave way at the first assault of the British troops and fled from the field panic stricken. The brave Continentals sustained the fight till they were almost completely sacrificed, and finally yielded the field, counting among their loss the gallant Baron De Kalb, their leader. In view of the many instances of bravery displayed during the war by the militia of these States, we may well look for some cause for the disgrace at Camden, other than a lack of valor. This is found in the want of generalship displayed by Gates, who risked a pitched battle with such a commander as Cornwallis, and such troops as the British regulars, while his own force consisted mostly of raw militia, who had never heard an enemy's gun, and whose spirits were

[1] Sparks's Writings of Washington, vii., 92-3.

broken by the forced marches by night, which the season and climate had rendered necessary to get them to his camp. That it was the mismanagement of these raw troops which caused the disaster, was demonstrated by the fine behavior of one of the regiments of North Carolina militia, that under Colonel Dixon, a splendid officer, who had been trained in Washington's army, this regiment gallantly held its ground when the others fled, and joining the veteran Marylanders, vied with them in deeds of courage.

Cornwallis now felt that the conquest of South Carolina was effected, as no resistance was left save the diminished bands of partisans under Marion, Sumter, and Pickens. After taking steps to secure this State he moved from Camden, September 8, to invade North Carolina, the conquest of which was deemed certain before Congress could send another army to its relief. North Carolina subjected, Virginia was to be the next victim of his arms. But now occurred one of the most remarkable events of the war, one which checked the victorious advance of the British, and finally led to the close of the struggle.

Cornwallis moved with his main body toward Charlotte, the county seat of Mecklenberg County, aiming at Salisbury, where Gates was collecting his shattered forces. On the west, Tarleton with his noted legion traversed the country, while further west, and constituting the British left wing, Colonel Patrick Ferguson moved with a force of about 1,200 men, of whom a few were Queen's rangers, and the rest Tory regiments gathered in New York, New Jersey, and the mountain districts of the

Carolinas. He was a cousin of the famous Dr. Adam Ferguson, and was considered one of the finest officers in the British army. The material of his force made it particularly obnoxious to the Whigs, who had good reason for hating his men in the exasperating excesses which attended their march. In the fights at Cedar Spring and Musgrove's Mill, Ferguson for the first time heard the deadly rifles of the Watauga men, who had crossed the mountains under Isaac Shelby and were aiding their Carolina neighbors to annoy, if they could not destroy, the invaders. The defeat of Gates caused Shelby to retire to Watauga, but he had not been long at home before he received a message from Ferguson, sent by a released prisoner, Samuel Philips. "Tell him," said the proud Briton, "that if he and the others do not desist from their opposition to the British arms, I will march my army over the mountains, hang their leaders, and lay their country waste with fire and sword." Never was a threat more disastrous to the person sending it. The brave settlers over the mountains were aroused by its delivery, and at once determined not to wait for the hated Ferguson, but to destroy him, if possible, before he attempted to cross the mountains. Colonel Shelby, and Colonel John Sevier, of Washington County, North Carolina, first concerted the plan, and despatched a messenger to Colonel William Campbell, of Washington County, Virginia, requesting him to join them. On September 25, there assembled at Watauga, the appointed rendezvous, 400 men from Washington County, Virginia, under Colonel Campbell, 240 from Sullivan County, North Carolina, under Colonel Isaac Shelby, 240

from Washington County, North Carolina, under Colonel John Sevier, and 160 men under Colonel Charles McDowell, who were refugees from Burke and Rutherford Counties, North Carolina. On the next day they began their march, Parson Doak, their pioneer parson, blessing them, and adding, "Go forth, my brave men—go forth with the sword of the Lord and of Gideon." On the 30th, after crossing the mountains, they were joined by Colonel Benjamin Cleveland and Major Joseph Winston, with 350 men from Wilkes and Surry Counties, North Carolina. The little army was mostly well mounted, and armed with the deadly Deckard rifle, in the use of which every man was an expert. Their baggage consisted of a blanket, a tin cup, and a wallet filled with provisions, most frequently parched corn and maple sugar. Here and there a skillet might be seen, serving for a mess, and such game as might fall in their way. On the march they were joined by 270 of Sumter's men, under Colonel Lacy, and 160 other recruits, making the force 1,840 strong.

Before leaving Watauga Colonel Campbell had been selected as the commander of this brave band. He had not only the imposing figure so well becoming a great leader, but military genius of a high order, and that rare capacity of inspiring his command, as if by magnetism, with his own confidence and indomitable courage. They were ever ready to follow wherever he would lead.

While this band of brave volunteers was marching rapidly toward the British invaders, Ferguson was waiting at Gilbert Town. Upon hearing of their approach he took a position on King's Mountain.

Campbell's van consisted of his 910 mounted men, and fifty riflemen, who, outstripping the others, had marched fifty miles in eighteen hours through mud, rain, and darkness, and had overtaken the horses. Although inferior to Ferguson in numbers, he did not hesitate to attack him at once. Throwing his force around the little mountain, he encircled the enemy, and after a stubborn fight in which Ferguson fell, he killed or captured the entire British army consisting of 1,105 men.[1] For this gallant action Campbell and his officers and men received the warm thanks of the Virginia Legislature and of Congress, and never were men better entitled to the lasting gratitude of their country.

The effect of this victory was to turn the tide of war in the South. Cornwallis, who had advanced beyond Charlotte on the road to Salisbury, at once fell back to Winnsborough, in South Carolina, where he waited for re-enforcements.

Sir Henry Clinton had sent General Leslie to Portsmouth, Virginia, in October, with three thousand men, in order that he might meet Cornwallis in his advance through North Carolina into Virginia. He now ordered him to sail for Charleston, and from there to join Cornwallis. In the meantime the States of North Carolina and Virginia were using every effort to raise another army to take the place of the one destroyed at Camden. The invasion of Leslie had for the time prevented the Virginia troops from leaving her borders, but his departure on November 12, released them, and they were

[1] So stated in the resolution of the House of Delegates thanking Campbell and his men. See King's Mountain and its Heroes, by Lyman C. Draper, for a full account of this battle and the incidents leading to it.

sent south. Congress removed General Gates from his command, and left it to Washington to appoint his successor. He sent General Nathaniel Greene to take charge of the southern department. Now, for the first time, Cornwallis had to oppose in his southern campaign a general fully his equal, if not his superior. Greene reached his command in December. He found it about two thousand strong, of whom the greater part were militia. Among his officers he found men of real ability in Generals Smallwood and Morgan, and Colonels Washington, Lee, Howard, Williams, and Carrington. He soon won the confidence and enthusiastic admiration of his men.

Cornwallis being re-enforced by Leslie, began to move toward North Carolina again. At Cowpens, January 17, 1781, his able Lieutenant, Tarleton, was encountered by Morgan and badly beaten. In this action the Virginia troops, including her militia, were conspicuous for their bravery. Cornwallis now determined to convert his whole army into light troops by the destruction of his baggage, and with a vastly superior force commenced to press Greene, who retired before him. By masterly movements he saved his army during a retreat through North Carolina, crossing the Dan at Boyd's Ferry, now South Boston, in Halifax County, Virginia, on February 12.[1]

Two days before reaching the Dan, Greene wrote to Governor Jefferson,[2] "Our force is so inferior, that every exertion in the State of Virginia is ne-

[1] See a detailed account of this retreat in Lee's "Memoirs of the War" in the Southern department.

[2] Calendar of Virginia State Papers, i., 504.

cessary to support us. I have taken the liberty to write to Mr. Henry to collect fourteen or fifteen hundred volunteers to aid us." The home of Mr. Henry was in a county lying on the waters of the Dan. That he at once responded to the call of Greene is seen by the large re-enforcements which joined his army on reaching the north bank of the river. In Henry County, on receipt of the Governor's order to call out the militia, the officer replied that they had already joined General Greene "in greater numbers than called for,"[1] and the Counties of Pittsylvania, Halifax, Charlotte, Prince Edward, and others adjoining, were prompt to send forward their militia.

Cornwallis, baffled in his pursuit, turned to Hillsborough, and raised the royal standard there. But soon Greene with his re-enforcements was able to recross the Dan and move toward the enemy. At first he avoided a battle, but being further re-enforced by Colonel Campbell with 400 mountaineer riflemen, a brigade of Virginia militia under General Lawson, of Prince Edward County, two brigades of North Carolina militia under Colonels Butler and Eaton, and 400 regulars, he delivered battle at Guilford on March 15, 1781. After a hotly contested day he was forced to leave the British in possession of the field. In this battle the Virginia militia behaved with great bravery. Cornwallis suffered so heavily, that he experienced all the disadvantages of a defeat, and, unable longer to hold North Carolina, retired to Wilmington on the coast. Thus the splendid campaign of Washington in 1776–7 was re-enacted by his able lieutenant in 1780–1.

[1] Calendar of Virginia State Papers, i., 533.

Although another invading army, this time under the traitor Arnold, was in Virginia, she had not withheld her re-enforcements to Greene, and of the 3,650 men with which he fought at Guilford, 2,481 were Virginians, of whom 773 were Continentals.[1] "The great re-enforcements," wrote Cornwallis to Germaine, "sent by Virginia to General Greene while General Arnold was in the Chesapeake, are convincing proofs that small expeditions do not frighten that powerful province."[2]

Greene also wrote to Washington directly after the battle, "Virginia has given me every support I could wish."[3] Indeed, the generous aid furnished by Virginia to the common cause with an almost reckless disregard of her own safety, is above all praise. At this period she had by the return of her Governor, ten thousand men in Continental service, of whom 7,500 were regulars.[4] As indicated by the foregoing extract from Cornwallis' letter, her powerful exertions determined the enemy to attack her with a strong force, sufficient, as it was thought, to effect her subjugation.

In addition to her contribution to the Continental service, Virginia was again obliged to take active measures to check the renewed disposition of the Cherokees to aid the British in their war upon the Southern States. In January, 1781, a parcel of her militia, under Colonel Arthur Campbell, of Washington County, with 300 men from the Watauga settlement, under Colonel Sevier, and 400 men from Sullivan County, North Carolina, all volunteers,

[1] Bancroft, x., 479. [2] Idem.

[3] Correspondence of the Revolution, iii., 267.

[4] Girardin's continuation of Burk's History of Virginia, iv., 425–430. Randall's Jefferson, i., 290.

went upon an expedition against the Cherokees, and routing the warriors, burned their principal towns. At a peace conference, the Virginians retained the right to fortify a point at the junction of the Holston and Tennessee Rivers. The fort proved an effectual check upon the Cherokees, and protected the communication with the Mississippi, and the route to Kentucky and the southwestern frontier.[1]

The ever restless northern tribes, instigated by the British at Detroit, were a continual menace to the security of the western frontier. General George Rogers Clark now asked to be permitted to undertake his long-desired expedition against that fort, and the Governor of Virginia determined to give him the needed men and means. Considerable progress was made in preparing for the expedition during the winter of 1780–81, but the enterprise was finally abandoned in view of the pressing needs of the State under the British invasion.[2]

At the North the year 1780 was one of excited hopes for the American patriots, followed by disappointment. On July 10, a French fleet, under Admiral De Ternay, having on board 5,000 troops under the command of Count Rochambeau, arrived at Newport, in Rhode Island. This was the first instalment of the promised aid. Washington at once concerted with the commander an attack upon New York, but on the 13th, the British Admiral Graves appeared with a superior fleet, and prevented the French from leaving the port. Washington, whose own army was much reduced, was

[1] Girardin, 472. Calendar of Virginia State Papers, i., 434.

[2] See papers touching this expedition in Calendar of Virginia State Papers, vol. i.

forced to await the arrival of the second division of the French re-enforcement, and this was blockaded in the harbor of Brest, by a British squadron. In September the country was startled by Arnold's treason and attempt to betray West Point into the hands of the British, which was discovered and prevented by the capture of André. Clinton, trusting the safety of New York to the superiority of the British fleet, now detached Leslie to Virginia, where he expected him to meet Cornwallis as the conqueror of the Carolinas, as we have seen.

It was in this condition of affairs that the Assembly met at Richmond, October 16. Mr. Henry was promptly in his seat, with his health greatly improved. The body did not get to work till November 6, owing to the unusual number of absences which the disturbed state of the country produced. On that day Mr. Henry was made chairman of the Committee of Privileges and Elections, and of the committee to bring in a bill for the better defence of the Southern frontier, and was placed upon the Committees of Propositions and Grievances, and of Courts of Justice. We also find him during the session on committees to form a plan for the defence of the eastern frontier of the State; to prepare bills for raising the State's quota of men and money; to settle the accounts of the delegates to Congress, and the accounts of the State with the United States; to draw bills for the organization and maintenance of the navy, the better regulation and discipline of the militia, and the supplying the army with clothes and provisions.[1] Of some of these committees he was chairman.

[1] Journal, 7, 8, 10, 14, 24, 45, 50, 51.

Among the papers which he introduced, the following are worthy of note:

Resolutions, that a special messenger be sent to the Governor of North Carolina, urging the formation of magazines of provisions for the use of the Virginia soldiers going south; that a proper person be appointed to lay before Congress the condition of the South, and the resources of Virginia, and to concert with that body, the minister of France, and General Washington, the necessary measures to be taken, and urging both France and Spain to join in expelling the common enemy from their late conquests; that a French loan be negotiated; that salt and money be sent to the families of those who fell at King's Mountain; that the Governor be empowered to impress clothing for the Virginia line; for the removal of the Convention troops out of the State during its invasion; to dispense with supernumerary officers; and to authorize the Governor to change the next place of meeting of the Legislature, in case of invasion.[1]

The work of this session shows the body fully alive to the danger which threatened the commonwealth. Three thousand men were ordered to be raised by draft, if necessary, to complete the State's Continental quota, each recruit for the war to receive twelve thousand dollars in paper money, and at its close a healthy negro, or sixty pounds in specie, and three hundred acres of land. The Governor was empowered, in case of invasion, to call out any number of men needed; the several counties and corporations were required to furnish the needed clothes, provisions, and wagons; additional treasury notes

[1] Journal, 17, 35, 43, 57, 66, 76, 79.

not exceeding ten millions were ordered to be issued, and heavy taxes were laid to meet present requirements and fund the old issues.

Among the acts there was one which was doubtless the work of Mr. Henry, though the journal does not disclose its author. It was the "act declaring what shall be a lawful marriage." By its provisions a minister of any society or congregation of Christians was authorized to celebrate the rite of matrimony, and all marriages theretofore celebrated by dissenting ministers were declared valid. This law was passed in response to a memorial of the Baptists, whose ministers for some time past had been performing marriage ceremonies with doubtful warrant of law, under the advice, it is said, of Mr. Henry, as the best method of obtaining the proper legislation.[1]

During the session General Gates, displaced from his command, bowed down with shame at his defeat at Camden, and on his way to meet a court of inquiry, reached Richmond. The Legislature exhibited a nobility far different from the spirit shown in the conduct of King George, who refused to permit Burgoyne to enter his presence after his defeat at Saratoga. On December 28, 1780, Mr. Henry, in the House of Delegates, moved, "That a committee of four be appointed to wait upon Major-General Gates, and to assure him of the high regard and esteem of this House. That the remembrance of his former glorious services cannot be obliterated by any reverse of fortune; and that this House, ever mindful of his great merit, will omit no opportunity of testifying to the world the gratitude which, as a

[1] Semple's Baptists in Virginia, 60.

member of the American Union, this country owes to him in his military character." This resolution was unanimously adopted, and Messrs. Henry, R. H. Lee, Lane, and General Nelson, were appointed the committee to communicate it to General Gates. The fallen hero was deeply moved by this generous action of the House, and returned the following answer:

"SIRS: I shall ever remember with the utmost gratitude, the high honor this day done me by the honorable the House of Delegates of Virginia. When engaged in the noble cause of freedom and the United States, I devoted myself entirely to the service of obtaining the great end of their union. That I have been once unfortunate is my great mortification; but let the events of my future services be what they may, they will, as they always have been, be directed by the most faithful integrity, and animated by the truest zeal for the honor and interest of the United States."

The special mission to Congress, moved by Mr. Henry, was intrusted to Benjamin Harrison, who succeeded in procuring an act assigning to the southern army all the regular troops from Pennsylvania to Georgia inclusive, and the order for Lafayette to march south at once with a detachment of 1,200 regulars. This action proved most timely and important in its results.

CHAPTER XXVII.

CESSION OF THE NORTHWEST TERRITORY.—1780-81.

Resolution of Congress Requesting Cession of Western Lands.—Contest between Virginia and the Land Companies.—Large Claims of the Latter.—They Appeal to Congress.—Remonstrance of the Virginia Assembly.—Claims of other States to Part of Virginia's Territory.—Action of Maryland.—Policy of Spain.—Attempt to Treat with Her.—The Land Companies Attempt to Bribe Congress.—Offer of Virginia to Cede her Northwestern Territory, and to Yield the Right to Navigate the Mississippi, in order to Secure the Union.—The Conditions Attached Opposed by the Land Companies.—Their Influence upon the Action of Congress.—History of the Offer of Virginia in Congress.—Final Acceptance.—Subsequent Action of the Indiana Company.—The Claim of Virginia to the Northwestern Territory Stated and Defended.

A MATTER of the gravest importance was brought to the attention of the Legislature at this session by the resolution of Congress of September 6, 1780, which after reciting the refusal of Maryland to sign the articles of confederation unless the western lands were ceded to the Union, and the vital importance of the completion of the confederation, urged "those States who have claims to the western country, to pass such laws, and to give their delegates in Congress such powers, as may effectually remove the only obstacle to a final ratification of the articles of confederation."

The questions which had been raised concerning the western country were serious, and their solution had been made more difficult by complications with

other matters, and by the improper methods used to influence the action of Congress. Their effect upon the history of the United States requires a more particular notice of them than has been heretofore given in these pages.

The claim of Virginia that her territory extended westward to the Mississippi River, between the lines established by her charter of 1609, and that no purchase of lands of the Indians within her borders was valid, except by authority of the State, not only aroused the jealousy of those States having no western territory, but excited the bitterest hostility on the part of the great land companies who were claiming large portions of her territory under Indian grants. These were the Indiana, Vandalia, Illinois, and Wabash Companies. The two first named were the most persistent and effective in their opposition to the claims of Virginia. The Indiana Company based their rights upon a purchase from the Six Nations in 1768, at Fort Stanwix, of a large tract of land south of Pennsylvania, between the Laurel Hills on the east, the Ohio on the west, and the Kanawha on the south.[1] The grantees were William Trent, George Morgan, Evan Shelby, John Gibson, and nineteen others.[2] The Vandalia Company originated in a scheme of Thomas Walpole, Samuel Wharton, Benjamin Franklin, and Thomas Pownal, in 1769, to form a new colony on the south side of the Ohio River. They applied to the King in council for the purchase of two million four hundred thousand acres, and although opposed by Lord Hillsborough, then

[1] Calendar of Virginia State Papers, i., 273.
[2] Idem, vi., 4.

President of the Board of Trade, an order was passed granting their petition, but the patent was never signed. The intended purchase was known as the "Walpole Grant," the company formed was called the "Grand Company," and they proposed to name the Colony "Vandalia."[1] Their proposed boundaries would have taken in the territory of Virginia between the Alleghany Mountains and the Ohio River,[2] now West Virginia, and included the land claimed by the Indiana Company. The Illinois and Wabash Companies claimed lands north of the Ohio, purchased of the Indians since the beginning of the war. They were united and did not at first dispute the territorial rights of Virginia.[3]

The Indiana Company having commenced to sell lands to settlers, the Virginia Convention, on June 24, 1776, declared that no purchase of lands within her chartered limits should be made of any Indian tribe without the approbation of the Legislature, and appointed a commission to take evidence against the persons claiming under such purchases. Thereupon the Indiana Company presented a memorial to the Legislature, dated October 1, 1776, protesting against any impeachment of their title. Upon the report of the commissioners, the Legislature reaffirmed the position previously taken, and by resolution, May 18, 1779, declared, that the purchases by individuals of Indian titles enured solely to the commonwealth, and proceeded to open a land office to dispose of the lands south of the Ohio. The company next appealed to Congress in a mem-

[1] Writings of Washington, ii., 483–5. Old Northwest, by Hinsdale, 133.
[2] Writings of Washington, ii., 357 and 360.
[3] Calendar of Virginia State Papers, i., 314.

orial dated September 11, 1779, in which, after denying the right of Virginia to the western lands, they claimed that sovereignty over them was vested in the United States in Congress assembled, as successors to the rights of the crown, and prayed that Congress would hear and determine their dispute with Virginia.

The Virginia delegates protested against the consideration of this memorial, but Congress on October 30, 1779, hesitating to assume jurisdiction in the matter, yet not declining it, recommended to Virginia to reconsider her act for opening a land office, and requested that all States claiming western land forbear to issue warrants for them during the war.

This memorial and the action of Congress thereon called forth an able remonstrance from the Virginia Assembly, drawn by George Mason, and adopted December 10, 1779. In it they say:

"Congress have lately described and ascertained the boundaries of these United States, as an ultimatum in their terms of peace. The United States hold no territory but in right of some one individual State in the Union. The territory of each State, from time immemorial, hath been fixed and determined by their respective charters, there being no other rule or criterion to judge by. Should these in any instance (when there is no disputed territory between particular States) be abridged without the consent of the States affected by it, general confusion must ensue; each State would be subjected, in its turn, to the encroachments of the others, and a field opened for future wars and bloodshed; nor can any arguments be fairly urged to prove that any particular tract of country, within the limits claimed by Congress on behalf of the United States,

is not part of the chartered territory of some one of them, but must militate with equal force against the right of the United States in general, and tend to prove such tract of country (if northwest of the Ohio River) part of the British province of Canada.

"When Virginia acceded to the articles of confederation, her rights of sovereignty and jurisdiction within her own territory were reserved and secured to her, and cannot be infringed or altered without her consent. . . . The General Assembly of Virginia have heretofore offered Congress to furnish lands out of their territory on the northwest side of the Ohio River, without purchase money, to the troops on Continental establishment. . . . But although the General Assembly of Virginia would make great sacrifices to the common interest of America (as they have already done on the subject of representation), and will be ready to listen to any just and reasonable propositions for removing the ostensible cause of delay to the complete ratification of the confederation, they find themselves impelled by the duties which they owe to their constituents, to their posterity, to their country, and to the United States in general, to remonstrate and protest, and they do hereby, in the name and on behalf of the commonwealth of Virginia, expressly protest against any jurisdiction or right of adjudication in Congress upon the petitions of the Vandalia and Indiana Companies, or on any other matter or thing subversive of the internal policy, civil government, or sovereignty of this or any other of the United States, or unwarranted by the articles of confederation." [1]

This able paper effectually disposed of the claim of sovereignty in the United States over the west-

[1] Journal of House.

ern territory, and its positions have been since fully sustained by the Supreme Court of the United States. But another claimant had appeared to contest Virginia's rights. The State of New York put up a claim to all of the lands occupied or claimed by the Six Nations and their tributaries, which embraced all the northwestern lands and some south of the Ohio, on the ground of a protectorate over these tribes; and then, with an air of great generosity, her Legislature on March 7, 1780, authorized her delegates in Congress to cede to the United States this territory, "to accelerate the federal alliance." This baseless claim, and its transfer to Congress, was doubtless for the purpose of furnishing that body with a pretext to claim these lands against Virginia, as was subsequently attempted in a committee's report.

The States of Connecticut and Massachusetts also laid claim to a part of the western territory under their charters. Connecticut claimed the strip between the parallels of 41° and 42° 2′ north latitude, and Massachusetts a strip north of this. The claim of New York was large enough to cover these also, as they were within the hunting grounds of the Six Nations.

The act of New York did not satisfy Maryland, which still refused to sign the articles of confederation. Indeed, that State was evidently in accord with the land companies. Her declaration of December 15, 1778, of the reasons which determined her to withhold her assent to the articles, made a condition of such assent, that the United States should have the right "to all lands lying westward of the frontiers, not granted to, surveyed for, or

purchased by individuals, at the commencement of the present war."[1]

The act of New York contained no condition in conflict with the claims of the land companies, but Maryland, having no confidence in her asserted right, waited for Virginia to act.

Upon consideration of the instructions of Maryland to her delegates, the remonstrance of Virginia, and the act of New York, Congress on September 6, 1780, waiving all discussion of the serious questions involved, passed the resolution heretofore noticed, earnestly recommending to the claimant States to remove the only obstacle to the confederation by ceding their claims to the United States. The companies now proposed to the Virginia delegates, by a letter of November 16, to submit their dispute to arbitrators to be chosen by Congress. This was declined on the ground that Virginia had finally decided the matter, and it was derogatory to her sovereignty to allow an appeal from her decision on a claim of individuals.[2]

Another matter of serious import now entered into the complication. It grew out of the selfish policy of Spain. That kingdom had refused to enter into treaties with the United States, though at war with Great Britain. Her movements in America indicated a disposition not only to possess herself of the territory held by the British, but also of the entire valley of the Mississippi, into which she sent an expedition in 1779. A portion of the letter of Congress to Jay, of October 17, 1780, was devoted to combating her right to possess herself of

[1] See this paper in Hening's Statutes at Large, x., 549.
[2] MS. Executive Communication in 1780.

the territory of the United States, although she might find it temporarily under British dominion. Another part argued the right of the United States to the free navigation of the Mississippi to the Gulf, which Congress, at the instance of Virginia, had required to be a condition of any treaty, but which it was understood Spain was loath to grant. This disposition of Spain to acquire western territory, was discovered by George Rogers Clark in his intercourse with her authorities in St. Louis. He wrote to Governor Jefferson, March, 1780, "I am not clear but the Spaniards would fondly suffer their settlements in the Illinois to fall with ours, for the sake of having the opportunity of retaking both. I doubt they are too fond of territory to think of restoring it again." [1]

The subjugation of Georgia and South Carolina by the British excited serious alarm. It was well known that the neutral powers in Europe were attempting to force a peace, and there was danger that such a peace might be on the principle of *uti possidetis*, and so Georgia and South Carolina be left in possession of Great Britain, or partly in the possession of Spain under conquests from the English. This made it of the greatest importance to engage Spain in a treaty, which would not only prevent her from conquering any of the territory of the United States for herself, but would secure her aid in wresting it from British occupation for the United States. The delegates from the occupied States, after October 17, 1780, pressed these considerations upon Congress, and insisted that in order to effect a treaty with Spain, and obtain pe-

[1] Virginia Calendar of State Papers, i., 338.

cuniary and other aid from her, it would be better to yield temporarily the right to the free navigation of the Mississippi, however important to the western country, and to this view they won Colonel Bland, one of the two Virginia delegates in attendance,[1] and enough of the other delegates to carry their proposal, if need be, without the vote of Virginia.

To add to the embarrassments of the territorial questions, the country learned with horror that the land companies had bribed some of the members of Congress by giving them stock in their enterprises. A rumor to this effect is mentioned by George Mason in a letter to Joseph Jones, one of the Virginia delegates, July 27, 1780.[2]

The whole subject of the western lands was brought to the attention of the Legislature by the resolution of Congress of September 6, and by letters from the Virginia delegates. Among these a letter from Colonel Bland of November 22, 1780, addressed to the Governor, contained the following passages:

"It may not be improper to inform your Excellency and (through your Excellency) the Legislature, who we suppose may be now sitting, that every art has been and 'tis probable may be used, by that company (the Indiana) to extend their influence and support their pretensions, and we are sorry to say that we have suspicion founded upon more than mere conjecture, that the land jobs of this company, and the Vandalia and Illinois companies, have too great an influence in procrastinat-

[1] Letter of James Madison, Madison's Works, vol. iv., 558, etc.
[2] Bland Papers, ii., 130.

ing that desirable and necessary event of completeing the confederation, which we hope the wisdom, firmness, candor, and moderation of our Legislature now in session will remove every obstacle to.

"We could wish also, and we think it a duty we owe to our constituents, to call their attention to a revision of our former instructions relative to the navigation of the Mississippi—that should any overtures from Spain be offered which are advantageous to the United States, and which might contribute not only to relieve our present necessities, but promise us peace and a firm establishment of our independence, it might not be considered as an object that would counterbalance the distant prospect of a free navigation of that river, with stipulated ports—which may perhaps, under another form or at some more convenient opportunity, be obtained from that nation, in behalf of our citizens settled on its banks and waters. Having shown the above to my colleague, Mr. Madison, he has thought it unnecessary to join in that part of it relating to our instructions on the subject of the navigation of the Mississippi."[1]

These papers found the Virginia Assembly ready to consider the grave matters contained in them in the most patriotic spirit. Colonel Mason, who had drawn the remonstrance of December 10, 1779, had written to Mr. Jones in the letter of July 27, 1780, already cited, as follows:

"Nothing has been moved in our assembly respecting our western territory since the remonstrance to Congress, nor do I think there will be shortly, unless there are some propositions from Congress on the subject; but I am sure the most

[1] MS. Executive Communication of 1780.

judicious men in our legislature, and the firm friends to American independence, are well disposed, for the sake of cementing our union, and accelerating the completion of the confederation, to make great cessions to the United States, and wish for such reasonable propositions from Congress as they can unite in supporting. You will observe a hint in the remonstrance to this purpose; it was intended to bring on offers from Congress."

We learn from this that in 1779, before New York authorized her cession, Virginia was ready to cede to the United States, on reasonable terms, the northwestern territory, in order to complete the confederation and cement the union, and only waited for Congress to propose it. We may be well assured also that Patrick Henry, who had just resumed his seat in the Legislature, and was on the most intimate terms with Colonel Mason, agreed with him in this policy. The latter would have certainly included him among "the most judicious men in our legislature, and the firm friends to American independence." This letter of Colonel Mason is remarkable also for indicating the terms upon which the cession should be made, which were almost identical with those subsequently proposed. These conditions, he writes, he is satisfied, after taking pains to inform himself, will be acceptable to the Legislature; which means that Mr. Henry with other leaders approved them.

The matters connected with the western territory were fully debated by the House of Delegates in committee of the whole till January 1. On the next day, the last of the session, the body agreed to the report of the committee of the whole, and

adopted the celebrated resolutions for the cession to the United States of the territory northwest of the Ohio River.

The generous motive of Virginia for this act is shown in the preamble, which is as follows:

"The General Assembly of Virginia being well satisfied that the happiness, strength, and safety of the United States depend, under Providence, upon the ratification of the articles for a Federal Union between the United States, heretofore proposed by Congress for the consideration of the said States respectively, and preferring the good of their country to every other object of smaller importance, do *Resolve*, etc."

The conditions attached to this magnificent grant were:

1st. That the Territory should be formed into states, not less than 100, nor more than 150 miles square.

2d. That Virginia should be reimbursed her actual expenses incurred on account of the territory ceded since the commencement of the war.

3d. That the French and Canadian settlers who had taken the oath of allegiance to Virginia, should be protected in their persons and property.

4th. That the lands promised to Colonel George Rogers Clark and his men should be secured to them.

5th. That in case the lands reserved on the southeast side of the Ohio for the Virginia troops on Continental establishment, should prove insufficient, the quantity promised them should be made up on the northwest side of the river.

6th. That the lands ceded should be considered a common fund for the United States, according to their usual respective proportions in the general charge and expenditure; and therefore,

7th. That all purchases from the Indians by private persons should be deemed and declared absolutely void, and of no effect.

8th. That all the remaining territory of Virginia between the Atlantic Ocean and the southeast side of the Ohio should be guaranteed to the commonwealth by the United States.

The cession was to be of no effect until all the States ratified the proposed articles of confederation, and the other States having claims were called on to cede them likewise.

A resolution was added consenting to the yielding by Congress of the free navigation of the Mississippi, "if insisting on the same is deemed an impediment to a treaty with Spain." [1]

Her readiness to make these great sacrifices for the common welfare, was in keeping with the noble conduct of Virginia during the entire Revolutionary struggle, but perhaps no act of hers has excited greater admiration, nor had a greater effect upon the history of America, than her cession of the northwestern territory.[2]

Fortunately, her resolution concerning the free navigation of the Mississippi wrought no evil. Congress acting upon it, changed Jay's instructions upon this point,[3] but Spain was not willing to treat on any terms, and as soon as the emergency passed,

[1] Journal, p. 80.

[2] It not only effected the completion of the confederation, but by endowing it with so large a property, it gave it credit, and the characteristic of a nation.

[3] Secret Journal, ii., 393.

Virginia recalled her resolution, and Congress returned to her first instruction on the subject.

The condition of her cession of the northwestern territory, making it dependent on Maryland's signing the confederation, had the desired effect. On February 2, 1781, the legislature of that State authorized her delegates to sign the articles. In order to avail herself of Virginia's cession she abandoned her position in favor of the land companies, whose claims, it was apparent, would be defeated by the conditions annexed.

But these companies were not ready to give up their struggle. Their efforts were redoubled in the halls of Congress, and the generous proposal of Virginia, in consequence, met with a disgraceful reception. On January 31, 1781, the act of Connecticut of October previous, of New York of February 19, 1780, and of Virginia of January 2, 1781, each authorizing a cession of claims to northwestern lands, were referred to a committee of seven, whose report, if ever made, is not noted on the Journal. At a later date, these territorial cessions and the memorials of the land companies were referred to a committee of five, composed of Mr. Boudinot, of New Jersey; Mr. Varnum, of Rhode Island; Mr. Jenifer, of Maryland; Mr. Smith, of Pennsylvania; and Mr. Livermore, of New Hampshire. All of these States, except the last named, had shown the most determined opposition to Virginia's claims.[1] The composition of the committee, and the reference to it of the memorials, plainly discovered the influence controlling Congress. The committee, in entering upon its work, left the Virginia delegates no

[1] Rives's Madison, i., 454.

room to doubt as to its intention. It summoned them to defend the claims of Virginia against the adverse claims of the companies. This summons the delegates did not obey, but brought the matter to the attention of Congress on October 16, 1781, and asked that the committee be arrested in their course. But their appeal was in vain. The Virginia delegates very properly gave as the reasons for declining to appear before the committee, that the jurisdiction of Congress in territorial questions, under the articles of confederation just adopted, was limited to disputes between different States, and it was prohibited from taking cognizance of questions between individuals and States; that the claims of the companies against Virginia were cognizable alone by the State, and it was in derogation of her sovereignty to be drawn into a contest by them before foreign tribunals; that Congress had asked for cessions because it had deemed it inexpedient to enter upon the discussion of the rights of the claimant States, and it was not proper to make an act of cession the occasion for entering upon such a discussion.[1]

It was contended on the other hand, that the conditions annexed to Virginia's proposed grant required an investigation of her rights and those of the land companies.

On November 3, 1781, the committee made an elaborate report, recommending that Congress accept the cession made by New York, and giving as their reasons:

"1st. It clearly appeared to your committee, that all the lands belonging to the Six Nations of

[1] Old Northwest, 226. [2] Journal of Congress, vi., 158.

Indians and their tributaries have been in due form put under the protection of the crown of England by the said Six Nations as appendant to the late government of New York, so far as respects jurisdiction only.

"2d. That the citizens of the said colony of New York have borne the burthen, both as to blood and treasure, of protecting and supporting the said Six Nations of Indians and their tributaries for upwards of 100 Years last past, as the dependents and allies of the said government.

"3d. That the Crown of England has always considered and treated the country of the said Six Nations, and their tributaries, inhabiting as far as the 45th degree of north latitude, as appendant to the Government of New York.

"4th. That the neighboring colonies of Massachusetts, Connecticut, Pennsylvania, Maryland, and Virginia, have also from time to time by their public acts recognized and admitted the said Six Nations and their tributaries, to be appendant to the government of N. York.

"5th. That by congress accepting this cession the jurisdiction of the whole western territory belonging to the Six Nations and their tributaries, will be vested in the United States, greatly to the advantage of the Union."

They then recommend that Congress decline the proposed cession of Virginia for the following reasons:

"1st. It appeared to Your committee from the vouchers laid before them, that all the lands ceded or pretended to be ceded to the United States by the State of Virginia, are within the claims of the States of Massachusetts, Connecticut, and New York,

being part of the lands belonging to the said Six Nations of Indians and their tributaries.

"2d. It appeared that great part of the lands claimed by the State of Virginia and requested to be guaranteed to them by Congress, is also within the claim of the State of New York, being also a part of the country of the said Six Nations and their tributaries.

"3d. It also appeared that a large part of the lands last aforesaid, are to the westward of the west boundary line of the late colony of Virginia, as established by the king of Great Britain in council previous to the present revolution.

"4th. It appeared that a large tract of said lands hath been legally and equitably sold and conveyed away under the government of Great Britain before the declaration of independence, by persons claiming the absolute property thereof.

"5th. It appeared that in the Year 1763, a very large part thereof was separated and appointed for a distinct government and colony by the king of Great Britain, with the knowledge and approbation of the government of Virginia.

"6th. The conditions annexed to the said cession are incompatible with the honor, interest, and peace of the United States, and therefore, in the opinion of your committee, altogether inadmissible."

After thus discrediting Virginia's title, the Committee arrogantly

"Recommend to the State of Virginia as they value the peace, welfare and increase of the United States, that they reconsider their said act of cession, and by a proper act for that purpose, cede to the United States, all claims and pretensions of claims to the lands and country beyond a reasonable western boundary, consistent with their former acts

while a colony under the power of Great Britain, and agreeable to their just rights of soil and jurisdiction at the commencement of the present war, and that free from any conditions and restrictions whatever."

Taking up the claims of the land companies, the committee reported that the title to the lands claimed by the Indiana Company be confirmed to them, as properly purchased of the Indians, with the approbation of the Crown of Great Britain; that the agreement of purchase from the Crown by the Vandalia Company was never completed by affixing the seals and passing the usual forms of office; that the immoderate and extravagant grant claimed by them was incompatible with the interests, government, and policy of the United States, and should not be confirmed, but that the members should be reimbursed, out of the lands claimed, the costs and charges to which they had been subjected; that the claim of the Illinois and Wabash Companies be disallowed on the ground that their purchases had been irregularly made, and "that the Six Nations and their tributaries claim the same lands, in opposition to the Indians conveying the same in the deeds to said companies."

Had this report been written by the agent of the Indiana Company, it could not have been more entirely in their interest. It came up for consideration on April 18, 1782, when it was effectually killed by the motion of Mr. Lee, seconded by Mr. Bland, "that previous to any determination in Congress, relative to the cessions of the western lands, the name of each member present be called over by the secretary, that on such call, each member do declare

upon his honour, whether he is, or is not, personally interested, directly or indirectly, in the claims of any company or companies, which have petitioned against the territorial rights of any one of the States, by whom such cessions have been made, and that such declaration be entered on the journal." [1]

The members were not willing to stand the searching inquisition of this motion. It was parried, and the report of the committee postponed from time to time till May 6, when it was postponed indefinitely.[2]

On October 29, 1782, on the motion of Maryland, Congress accepted the deed executed by New York, but without any formal consideration of the previous report. Finally, after repeated efforts on the part of the Virginia delegates to obtain a vote on the proposed cession by Virginia, on June 4, 1783, so much of the report of November 3, 1781, as related to her act, was referred to a committee consisting of Mr. Rutledge, of South Carolina; Mr. Bedford, of Delaware; Mr. Carroll, of Maryland; Mr. Higginson, of Massachusetts, and Mr. Wilson, of Pennsylvania. Their report, which was favorable to the acceptance, was taken up for discussion on June 20, 1783, when a violent remonstrance by the Legislature of New Jersey was read, which referred to the act of Virginia as "partial, unjust, and illiberal," and accused her of "aggrandizing herself by the unjust detention of that property, which had been procured by the common blood and treasure of the whole, and which, on every principle of reason and justice, is vested in Congress for the use and general benefit of the Union they represent," and closed by asking that the cession of Virginia be re-

[1] Journal of Congress, vii., 263. [2] Idem, vii., 283.

jected.[1] The matter was again referred to a committee, consisting of Mr. Rutledge, Mr. Ellsworth, Mr. Bedford, Mr. Gorham, and Mr. Madison, who reported September 13, 1783, advising the acceptance of the cession of Virginia, if her conditions should be slightly modified. The modifications proposed were, to omit the seventh condition, annulling the Indian purchases, as fully covered by the sixth, which required the lands ceded to be held as a common fund for the use and benefit of the United States; and to omit also the eighth condition, which guaranteed the remaining territory to Virginia, "inasmuch as if the land above mentioned is really the property of the State of Virginia, it is sufficiently secured by the Confederation, and if it is not the property of that State, there is no reason or consideration for such guarantee."

This report was agreed to by the vote of every State except New Jersey, which voted against it, and New Hampshire, which had no quorum present in her delegation.[2]

The Legislature of Virginia, at its fall session, 1783, accepted these modifications, which did not really change her conditions, and authorized a deed to be made, which was tendered by Thomas Jefferson, Samuel Hardy, Arthur Lee, and James Monroe, her delegates in Congress, March 1, 1784.

The acceptance of it was resisted by George Morgan, agent for the Indiana Company, and by the State of New Jersey, in a petition that day filed, but Congress accepted the deed as tendered. At the same time the body, by a vote of six States to three, voted down a resolution offered by Mr.

[1] Journal of Congress, viii., 204–5. [2] Idem, viii., 260.

Beatty, of New Jersey,[1] to the effect that the acceptance "shall not be considered as implying any opinion or decision of Congress respecting the extent or validity of the claim of the commonwealth of Virginia, to western territory by charter or otherwise."

The following interesting account of the action of Congress was given by Mr. Jefferson in a letter to Governor Harrison, March 3, 1784:

"On receiving the act of Assembly for the Western Cession, our delegation agreed on the form of the deed; we then delivered to Congress a copy of the act, and the form of the deed we were ready to execute, whenever they should think proper to declare they would accept it. They referred the act and deed to a committee, who reported the act of assembly to comport perfectly with the proposition of Congress, and that the deed was proper in its form, and that Congress ought to accept the same. On the question to agree to the report of the committee, eight States being present, Jersey was in the negative, and S. Carolina and Pennsylvania divided (being represented each by two members). Of course there were 5 ayes only & the report fell. We determined, on consultation, that our proper duty was to be still, having declared we were ready to execute, we would leave it to them to come forward and tell us they were ready to accept. We meddled not at all therefore, & shewed a perfect indifference. N. Hampshire came to town, which made us 9 States. A member proposed that we should execute the deed and lay it on the table. Such, after what had been done by Congress, would be final, urging the example of N. York which had

[1] Journal of Congress, ix., 45, etc.

executed their deed, laid it on the table, where it remained 18 months before Congress accepted it. We replied, No, if these lands are not offered for sale the ensuing spring, they will be taken from us all by adventurers. We will not therefore put it out of our power, by executing a deed, to sell them ourselves, if Congress will not. A member from Rhode Island then moved that Congress should accept. Another from Jersey proposed as an amendment a proviso, that it should not amount to an acknowledgment of our right. We told them we were not authorised to admit any conditions or provisoes, that their acceptance must be simple, absolute & unqualified, or we could not execute. On the question there were 6 ayes, Jersey no, S. Carolina and Pennsylvania divided. The matter dropped & the house proceeded to other business. About an hour after the dissenting Pennsylvanian asked & obtained leave to change no, into aye. The vote then passed & we executed the deed."[1]

The Indiana company afterward sued the State in the Supreme Court of the United States, in 1792, upon its claim, and the suit resulted in the adoption of the 11th amendment of the United States Constitution, prohibiting such a suit in the United States courts.[2] The suit was thereupon dismissed, and the company was no longer able to annoy the State.

Massachusetts, on April 19, 1785, executed a deed to the United States surrendering her claim, except to the western part of New York; and Connecticut, on May 26, 1786, ceded her claim, reserving a strip of land along the international boundary line,

[1] MS. Letter among Executive Communications of Governor Harrison.
[2] Virginia Calendar of State Papers, vi., 1, 301.

known afterward as the Western Reserve. South Carolina and Georgia deeded their claims to vacant lands later.

Although Congress expressly disapproved the report of November 3, 1781, by accepting Virginia's deed with the conditions annexed, yet, as that report has since been appealed to as evidence against Virginia's right to the territory she ceded, it is proper to notice the grounds on which the State based her claims which were contested by the committee.

The claim of Virginia was founded upon her charter of 1609, granted by King James, as modified by the treaty between England and France in 1763; and upon the conquest made by her troops under George Rogers Clark.

The charter depended, of course, upon the right of the King to grant it. That right was founded on discovery, and was recognized and acted upon by all the European nations that made settlements in America. As between the discoverers and the natives, it impaired the rights of the latter, who were allowed simply a right of occupancy, but with no right to dispose of the soil. This right of occupancy in the natives could not be transferred to any one without the consent of the discoverers, who had the exclusive right of extinguishing the title which occupancy gave. This extinguishment could be effected either by purchase or by conquest. These principles were adjudged to be the foundation of the rights of the Europeans in America, by the Supreme Court of the United States, in 1823,[1] and had been acted upon by Virginia persistently, both

[1] Johnson vs. McIntosh, 8 Wheaton, 543.

while a colony and as a State.[1] However unjust they might appear to the Indians, no European could deny their validity, as upon them depended all the grants under which America was settled after its discovery. The first two charters of Virginia, in 1607 and 1609, were to the Virginia Company of London, and it is claimed distinctly by some, though only hinted at in the committee's report, that the judicial proceedings in the Court of King's Bench, ending on June 16, 1624, in an order, "That the patent or charter of the company of English merchants trading in Virginia, and pretending to exercise a power and authority over his majesty's good subjects there, be henceforth null and void,"[2] annulled the charter limits of the colony. But no such effect was intended, nor in fact followed from this judgment. It simply "invested in the crown the powers of government of the colony and the title to the lands within its limits."[3] This, which was the conclusion of the Supreme Court of the United States, is abundantly shown by the subsequent history of the colony. On May 13, 1625, the King issued his proclamation in which it is stated that, "having judicially repealed the letters patent of incorporation to the company of Virginia, and undertaken the government, the King declares the territories of Virginia, the Somer Islands, and New England shall form part of his empire, and the government of Virginia immediately depend upon himself. That councils shall be established for the immediate care of the affairs of that colony, one in

[1] Evidence of this is found in Hening's Statutes at Large.
[2] Virginia Company of London, 417.
[3] Johnson vs. McIntosh, 8 Wheaton, 578.

England, the other subordinate and resident in Virginia."[1] This proclamation negatives the idea of any change in the territorial limits of Virginia, and all the acts of the Virginia councils, and of the Virginia legislatures, subsequently, were based upon the claim of the same territorial limits to the colony under royal government, as under the charter of the company. These acts were with the approval of the government in England. The only subsequent limitations of the territory of Virginia by the King, were in the treaty of 1763, with Spain and France, whereby the Mississippi was designated as the western boundary; and in the charters granted to the colonies of Maryland, Pennsylvania, and North and South Carolinas, which were more or less carved out of the territory of Virginia, and were understood so to be, she protesting against them.

The territorial limits of Virginia, as fixed by her charter of 1609, were "from the point of land called Cape or Point Comfort, all along the sea-coast to the northward two hundred miles, and from the said Point of Cape Comfort all along the sea-coast to the southward two hundred miles, and all that space and circuit of land lying from the sea-coast of the precinct aforesaid up into the land throughout from sea to sea, west and northwest, and also all the islands lying within one hundred miles along the coast of both seas of the precinct aforesaid." As Point Comfort is on or near the 37th degree of latitude north, the four hundred miles on the Atlantic coast reached from about the 34th to the 40th degree of latitude. But the lines across the continent, as designated, were not without difficulty. They

[1] Calendar of State Papers, Colonial. Sainsbury, under date of 1625.

were plainly intended to reach from the Atlantic to the Pacific, then called the South Sea, and one was to be west and the other northwest. The only way of fulfilling these conditions was to run the lower line due west along the 34th parallel of latitude, and to run the upper line northwest, commencing on the Atlantic coast where the 40th parallel strikes it.[1] Such was the construction adopted by Virginia. The charter of New England, which was granted in 1620, gave the territory between the 40th and 48th degrees of latitude "throughout all the main lands from sea to sea. . . . and also within the said islands and seas adjoining, provided always that the said islands, or any of the premises herein before mentioned, and by these presents intended and meant to be granted, be not actually possessed or inhabited by any other Christian Prince or Estate, nor to be within the bounds, limitts, or territoryes of that southern collony heretofore by us granted to be planted by divers of our loving subjects in the south Part, &c."[2] Subsequent charters to the New England colonies contained like restrictions. Whatever therefore had been granted to Virginia in 1609, was reserved to her by the New England charters, and the claims of Massachusetts and Connecticut could in no way interfere with her territory.

By the lines claimed by Virginia the larger part of the territory embraced in the limits of Pennsylvania, and all the territory west and northwest of that State south of the lakes, were within her charter limits. But this territory was limited by the treaty

[1] Old Northwest, 75.

[2] Charters and Constitutions, Poore. Old Northwest, 75.

of Paris in 1763, which fixed the Mississippi as the western boundary of the English colonies, and extinguished the claim of France to all the territory south of the lakes and east of the Mississippi. On October 7, 1763, the British King issued his proclamation[1] fixing the government of the territory acquired for the first time by this treaty, but not embracing in the new acquisitions the territory claimed by Virginia in the northwest, that being treated as under the government established by previous charters. This proclamation then proceeded to provide against the molestation or disturbance of the Indians, who were under British protection, in the possession of such lands "as not having been ceded to or purchased by us, are reserved to them or any of them as their hunting grounds." It commands the governors of the newly acquired provinces to pass no patents for lands beyond their boundaries, and "also that no governor or commander-in-chief in any of our other colonies or plantations in America do presume for the present, and until our further pleasure be known, to grant warrants of survey or pass patents for any lands beyond the heads or sources of any of the rivers which fall into the Atlantic Ocean from the west or northwest; or upon any lands whatever, which not having been ceded to, or purchased by us, as aforesaid, are reserved to the said Indians, or any of them." It declares it to be the "royal will and pleasure for the present, to reserve under our sovereignty, protection and dominion for the use of the Indians," all the said lands, and forbids all purchases of, or settlements upon,

[1] American Archives, 4th Series, i., 172. Marshall's Washington, i., note x.

the same, "without our special leave and license for that purpose first obtained," and such purchases were to be "only for us in our name."

The effect of this proclamation was to forbid for the time settlements upon, or purchases of, the lands west and northwest of the range of the Alleghany Mountains, in which were the sources of the streams flowing eastward and falling into the Atlantic. It was claimed in the Committee's report that it fixed the western boundary line of Virginia along that range of mountains. It is apparent, however, that it was designed for the preservation of peace with the Indians, by securing them in the enjoyment of their hunting grounds, and no intention of the King can be found in it to dismember Virginia, or to contract her limits. The construction of this proclamation here contended for, has been put upon it by the Supreme Courts of Virginia,[1] and of the United States.[2] Indeed the Indian reservations were according to the policy of Virginia, adopted as early as 1661,[3] fixing boundary lines between the Indians and the white settlements; and this has been the policy of the United States since their acquisition of Indian territory. But it has never been contended that such temporary lines limited the sovereignty of the whites in the soil reserved for the use of the Indians. It will be seen also that if this proclamation of 1763 contracted the territorial limits of Virginia to the Alleghany Mountains, it had the same effect on the other colonies through which that range ran. But this effect was never claimed for it by either King or Colonies, and in truth the proclamation was

[1] Garner's case, 3 Grat., 740.

[2] Johnson vs. McIntosh, 8 Wheaton, 543.

[3] Hening, ii., 141.

not obeyed, settlements to the west of the Alleghanies having been frequently made after its date.

The public acts of Virginia show that she always claimed dominion over the territory embraced in her charter as she understood it.

In 1651, in her articles of surrender to the commissioners of Parliament sent out by Cromwell, she caused to be inserted a provision, "that Virginia shall have and enjoy the antient bounds and lymitts granted by the charters of the former kings,"[1] and when the restoration came she was in the undisputed possession of her charter rights.

Afterward, in establishing the county of Orange in 1734, the county of Augusta in 1738, and the county of Botetourt in 1769, extending beyond the Alleghany Mountains, their western boundaries were fixed by "the utmost limits of Virginia," and in the act concerning Botetourt, "the people situated on the waters of the Mississippi in the said county" were referred to as "very remote from their court-house. In 1772, Fincastle County was taken from Botetourt, and in 1776 it was subdivided into Washington, Montgomery, and Kentucky, the last extendiug to the Mississippi.[2] In 1754 Governor Dinwiddie determined to build a fort at the junction of the Alleghany and Monangahela Rivers as a protection against the French and Indians, and to induce settlers offered them "200,000 acres of land on the east side of the Ohio River within this dominion, 100,000 to be contiguous to the Fort, and the other to be on or near the Ohio."[3]

[1] Hening, Statutes at Large, i., 364.
[2] Idem, iv., 450; v., 79; viii., 395, 600; ix., 257-8.
[3] Idem, vii., 661.

The fort was erected during the winter and Spring following by the Virginians, under orders from their Governor.[1] It afterward became Pittsburg, and was ceded by Virginia to Pennsylvania in the compromise of their disputed boundary; but the retention by Virginia of the strip of land between the western limit of Pennsylvania and the Ohio River, part of which is above the 40° of northern latitude, is conclusive evidence of her claim to the western territory north of that line. Her statute book before the Revolution also abounds in acts for the encouragement and protection of settlers on the waters of the Mississippi.[2]

Nor was her claim thus asserted contested by the King. He did indeed claim and exercise the right to dismember her, by granting charters to colonies bordering on the Atlantic, which embraced some of her territory, but except where he had thus deeded, the royal government recognized her territorial limits as still existing. Two instances need only be noticed. In 1748 Thomas Lee, one of the Virginia Council, formed the "Ohio Company," and petitioned the King for a grant of 500,000 acres of land to be taken chiefly on the south side of the Ohio, between the Monongahela and Kanawha Rivers, and west of the Alleghanies, with the privilege of taking part on the north of the Ohio. The King signifying his approval, the company applied to the government of Virginia to aid them by inviting the Indians to a treaty, the lands being deemed to be within her territory. This the Royal Governor granted.[3]

[1] Virginia Calendar of State Papers, i., 277.

[2] Vide some of them cited in Garner's case, 3 Grat., 739, etc.

[3] Sparks's Writings of Washington, ii., 479.

Upon the application of Thomas Walpole and his associates for a grant of land on the Ohio River, the Lords Commissioners for Trade reported, April 15, 1772, that the lands applied for "contain part of the dominion of Virginia, to the south of the River Ohio."[1]

It thus appears that the Convention of 1776, and Governor Henry in 1778, in his instructions to Colonel Clark, had ample ground for claiming the Mississippi below and above the mouth of the Ohio as the western boundary of Virginia, by charter right.

But Virginia had perfected her claim before 1781 by conquest. In June, 1774, Parliament passed the "Quebec Act," whereby the government of Canada, called the province of Quebec, was extended over the territory between the Ohio and Mississippi Rivers south of the lakes; but the act contained a proviso, "that nothing herein contained relative to the boundary of the province of Quebec shall in any wise affect the boundaries of any other colonies."[2] At the beginning of the Revolution this government was over the northwestern territory claimed by Virginia, and was supported by a military force stationed in forts established from Detroit to the Mississippi. Thus, while the act did not purport to restrict the boundaries of Virginia, the civil and military occupation of the country northwest of the Ohio by the British effectually prevented the revolutionary government of Virginia from exercising jurisdiction over it. Had this state of things continued till the end of the war,

[1] Franklin's Writings, iv., 304.

[2] American Archives, 4th Series, i., 215.

there cannot be a doubt that England would have claimed and retained this territory as her own upon the doctrine of *uti possidetis*. The conquest of it by Virginia troops under Clark, who acted not for the United States but for Virginia alone, and the subsequent establishment of civil government over it by the Virginia Legislature as a part of the State, was a complete conquest from Great Britain of this portion of Virginia's territory. By it her charter rights were established over a territory which without it would have been lost to her and to the American States.

The grounds of Virginia's claim were distinctly recognized and urged in the letter to the American ministers at the courts of Versailles and Madrid, agreed on by Congress October 17, 1780. In this it was said "that all the territory lying within the limits of the States, as fixed by the sovereign himself, was held by him for their particular benefits, and must equally with his other rights and claims in quality of their sovereign, be considered as having devolved on them, in consequence of their resumption of the sovereignty to themselves."[1] And in arguing against the right of Spain to acquire any portion of the western territory by conquest, it is added: "If the right to the said territory depended on the conquests of the British posts within it, the United States have already a more extensive claim to it than Spain can acquire, having by the success of their arms obtained possession of all the important posts and settlements on the Illinois and Wabash, rescued the inhabitants from British domination, and established civil govern-

[1] Secret Journal of Congress, ii., 326.

ment in its proper form over them. They have, moreover, established a post on a strong and commanding situation near the mouth of the Ohio. . . . As to the proclamation of the King of Great Britain of 1763. . . . that, as is clear, both from the title and tenor of it, was intended merely to prevent disputes with the Indians, and an irregular appropriation of vacant land to individuals; and by no means either to renounce any parts of the cession made in the treaty of Paris, or to affect the boundaries established by ancient charters. . . . As this territory lies within the charter limits of particular States, and is considered by them as no less their property than any other territory within their limits, Congress could not relinquish it, etc."

Finally, by the treaty with England in 1783, each of the United States was acknowledged to be a free and independent State. This related back to the declarations of 1776, and admitted the validity of their acts, and as Virginia then assumed independence for the territory embraced within her charter as previously construed by her, it was a treaty recognition of the validity of her act.[1]

The claim of New York, as reported by the committee, was not to the sovereignty of the northwestern territory. It was not embraced in her charter, and she did not even claim it by purchase of the Indians. But the sole ground of her claim was that the Six Nations and their tributaries had been for many years "under the protection of the crown of England as appendant to the late govern-

[1] This is distinctly held by the Supreme Court of the United States in Harcourt vs. Gaillard, 12 Wheaton Reports, 126–27.

ment of New York so far as respects jurisdiction only," and that she had borne the expense of this protection. The committee reported that by accepting the cession of New York "the jurisdiction of the whole western territory will be vested in the United States." This upon its face is well deserving the comment made by more than one writer, that the claim of New York was flimsy in the extreme. But the fact is that, as early as 1744, in a treaty at Lancaster, Pa., between the Six Nations and commissioners from Pennsylvania, Maryland, and Virginia, the Indians were offered a quantity of goods "upon condition that they immediately make a deed, recognizing the King's right to all the lands that are or shall be, by his Majesty's appointment, in the colony of Virginia," and they accepted the offer and made the deed. This deed was recognized and confirmed in 1752 at Loggstown, on the Ohio, by the Six Nations, in a treaty with Virginia commissioners.[1] It was by the treaty at Fort Stanwix, in 1768, that New York claimed her protectorate over the Six Nations,[2] and therefore if she could acquire Virginia territory, or jurisdiction over it, by such a treaty, which would be contrary to the settled law governing Indian titles, still the acquisition would not be valid, because it was subsequent to the Indian treaties with Virginia.

The United States did not consider that they had gotten anything more by the deed of New York than a relinquishment of her empty claim, for that deed embraced her right to lands south as well as north of the Ohio which were claimed on the same

[1] Report, 457. 1st Session of 28th Congress, 35. The Lancaster deed was recorded in the General Court of Virginia. [2] Idem.

ground, and the United States have never pretended to any right to the land south of the Ohio embraced in her grant.

It may be added, in conclusion, that the Supreme Court of the United States in several cases following Johnson *vs.* McIntosh, has fully vindicated Virginia's right to the northwestern territory, and has based the title of the United States on her deed.

CHAPTER XXVIII.

INVASION OF VIRGINIA.—1781.

British Fleet Enters the Capes December 30, 1780.—Capture of Richmond by Arnold, and Destruction of Property.—The British Retire to Portsmouth and are Besieged.—Lafayette Sent to Virginia.—Naval Engagement off the Capes.—General Phillips, in Command of the British, Occupies Petersburg.—Meeting of the Legislature in March, 1781.—Critical Condition of the State.—Indifference of the Northern States.—Mr. Henry Moves a Representation to Congress.—Paper Prepared for the Committee.—Energetic Measures to Meet the Invaders.—Controversy between the Senate and House.—The Carolinas and Georgia Recovered by General Greene.—Cornwallis Marches into Virginia.—The State without Sufficient Arms.—Damaging Raids by the British.—Wayne Joins Lafayette, and the British Retire to Portsmouth.—Spirit of the Virginians.

As early as November 8, 1780, Washington informed Governor Jefferson that another embarkation was preparing in New York, which he surmised was intended for the south.[1] On December 9, Washington sent out a circular to the Governors of the seaboard States, apprising them of the proposed expedition from New York, and that it was "destined for the southward, as was given out there." On December 30, the British fleet entered the Virginia Capes. The next day Governor Jefferson was informed of the fact through a private letter written to General Nelson, which, however, did not give the character of the fleet. General Nelson

[1] Sparks's Writings of Washington, vii., 291.

was at once despatched to the lower country, with powers to call out the militia in that quarter. On January 2, further intelligence satisfied the Governor that the fleet was hostile and was advancing up the James. A requisition was now made upon the counties most convenient for 4,650 men, in addition to what General Nelson might call out. The call was quickly responded to, and the militia force formed was placed under the command of Baron Steuben, who had been left in Virginia by General Greene to organize and forward southward the Virginia troops raised for his army. The hasty preparation to meet the invader was too late. The enemy's fleet of 27 sail, having aboard the traitor Arnold with a force estimated at 1,000 men, aided by wind and tide, ascended the James with slight obstruction, and he reached Richmond on January 5, 1781. The Governor had commenced to remove the public property on January 2. The enemy destroyed the stores that remained, and pushing on to Westham, seven miles above on the river, where there was a foundry for casting cannon, and a laboratory, they burned the public buildings and the stores which had not been removed. On January 6, Arnold commenced his retreat, reaching Westover on the next day. By that time Colonel Nicholas, with 300 men, was six miles above him. General Nelson had collected 200 at Charles City Court-House, eight miles below; between two and three hundred men at Petersburg had placed themselves under General Smallwood, who happened to be passing through the State, and Baron Steuben and General Gibson had 1,800 men on the south side of the James hastening to intercept the invaders. At

Hood's, Colonel George Rogers Clark, with an advanced party, drew some of the British into an ambuscade, killed seventeen, and wounded thirteen. This was the only blood shed. The enemy retired to Portsmouth, and were there soon besieged by a militia force of about five thousand men, of whom one thousand were from North Carolina, under General Gregory.[1] A part of the French fleet lay before the town for a while, but finding that they were in danger of being cut off by the British fleet, they returned to Newport.

Washington being satisfied that the expedition of Arnold was intended to prevent reinforcements from being sent to the army in Carolina, wrote to Governor Jefferson and Baron Steuben to send forward at once the men raised for Greene.

Concluding, however, that an opportunity was offered to capture Arnold and his army, he despatched Lafayette with 1,200 regulars to Virginia to act with the militia, and persuaded the Chevalier Destouches, the French commander, to sail with the whole fleet to Chesapeake Bay. Lafayette's troops were chiefly from the Eastern States, and they were unwilling to march south, and began to desert. The Marquis thereupon announced in general orders that he was about to enter on an enterprise of great difficulty and danger, and trusted his men would not abandon him. If any desired to do so, however, he offered them permits to return home. This appeal to their pride had the desired effect, and the men declared that they were ready to follow him. He at once borrowed money on his own credit from

[1] Jefferson's Message to the Legislature, March 1, 1781, in Hening, x., 573. Randall's Jefferson, i., 295. Girardin's History of Virginia, 459.

the Baltimore merchants, and with it, and the aid of the ladies of that city, he fitted his men for their summer campaign.[1] The French fleet, with 1,100 men aboard, sailed March 8, 1781. On the 16th the British fleet, under Admiral Arbuthnot, overtook it off the Virginia Capes, and an engagement followed on the 20th which was a drawn battle, but resulted in the return of the French to Newport. On the 26th Arnold was reinforced by a detachment from New York of 2,000 men under General Phillips, who at once assumed command, greatly to the relief of the British officers, who detested the traitor under whom they had been forced to serve.

The British force in Virginia was now too strong to be held in Portsmouth, and Baron Steuben was forced to withdraw into the interior. General Phillips thereupon moved up the James, and turning to the left at City Point, occupied Petersburg, on the Appomattox, on April 25, after defeating General Muhlenburg, who, with one thousand militia, made a brave defence of the town. Phillips found and destroyed at Petersburg four thousand hogsheads of tobacco, one ship, and a number of small vessels on the stocks. Two days afterward he sent Arnold with two regiments to Osborn's, on the James, where he found and captured the remnant of the Virginia navy which the seamen were unable to sink or burn. They found his cannonade from the bank of the narrow stream was not to be resisted with the means at their command. A large amount of naval stores and 2,000 hogsheads of tobacco fell into his hands. On the same day Phillips

[1] Irving's Washington, iv., 266.

marched to Chesterfield Court-House, where he destroyed a large quantity of flour. Crossing the county of Chesterfield to Manchester, he destroyed the tobacco warehouses with the tobacco stored there, some 1,200 hogsheads, and prepared to cross the James to enter Richmond, when, to his surprise, he discovered Lafayette strongly posted for its protection with 4,600 men. By a forced march he had reached the town the evening before. The British general thereupon retired to his shipping, and re-embarked May 2, followed by Lafayette. But receiving despatches from Cornwallis that he was advancing with all speed from the south to effect a junction with him, General Phillips turned again toward Petersburg to meet him, while Lafayette took a position below Richmond near enough to protect the stores collected there.

It is interesting to note how ignorant the administration in England were of the true state of the conflict in America at this time, and how utterly unprepared they were for the catastrophe which was now approaching. Upon hearing of Arnold's successful raid upon Richmond, Germain wrote to Clinton on March 7, 1781:

"The success of General Arnold's enterprise up James River, which the rebel newspapers confirm, must greatly facilitate His Lordship's (Cornwallis) operations, by cutting off Greene's supplies and obliging the militia to take care of their own property. Indeed, so very contemptible is the Rebel force in all parts, and so vast is our superiority everywhere, that no resistance on their part is to be apprehended that can materially obstruct the prog-

ress of the King's arms in the speedy suppression of the Rebellion."[1]

The invasion of the State by Arnold made an extra session of the Legislature necessary, as the treasury was soon exhausted and the Governor found it impossible to execute the acts for furnishing the Continental army with the State's quota of men and supplies.

The body was convened by proclamation, and met March 1, 1781, at Richmond, where it sat twenty-one days. Mr. Henry was in his seat at the beginning of the session, and was made chairman of the Committee of Privileges and Elections, the only standing committee appointed. The body, upon completing its organization, resolved itself into a committee of the whole to consider the state of the commonwealth, and on the second day thereafter the committee reported resolutions, for the issue of five millions of pounds, redeemable by December 13, 1792, and for the passage of acts to remedy the interruption in the execution of the acts of the previous session, caused by the existing invasion. Mr. Henry was a member of the committees appointed to report appropriate bills pursuant to these resolutions.[2]

On the next day, the 6th, the committee reported the following resolution:

"That a representation to Congress be made, stating in general the progress of the war in the southern department, and the over-proportion of expense necessarily brought upon Virginia by the present arrangements, and in the most pressing

[1] Clinton and Cornwallis Controversy, i., 335. [2] MS. Journal, 5, 9.

terms calling the aid of the United States to support a due part of the ruinous burden under which this State at present labours."

It was further resolved that in case the exigencies of the State required it, the Governor should issue a further sum of five million pounds.

Mr. Henry doubtless introduced these resolutions, as he was made chairman of the committee to prepare the remonstrance to Congress. Mr. Taylor, of Caroline, and Mr. Tyler, were the other members of this committee.[1]

That Virginia, which had done so much for the protection of the other States, had just cause for complaint of their lack of active sympathy, now that the scene of war was transferred to her own borders, is undeniable.

Mr. Sparks, a Northern historian, whose access to the papers of Washington and others enabled him to form an accurate conclusion, states in his "Life of Washington," that, "The Eastern and Middle States in particular, after the French troops had arrived in the country, and the theatre of the war had been transferred by the enemy to the South, relapsed into a state of comparative inactivity and indifference, the more observable on account of the contrast it presented with the ardor, energy, and promptitude which had previously characterized them." And he adds, in reference to the army ordered South, "The soldiers being mostly from the Eastern and Middle States, marched with reluctance to the southward, and showed strong symptoms of discontent when they passed through Philadelphia.

[1] MS. Journal, 9.

This had been foreseen by General Washington, and he urged the superintendent of finance to advance to them a month's pay in hard money."

It is not to be wondered at that the people of Virginia felt this keenly, and that Mr. Henry should be their mouthpiece in expressing their feelings. The committee appointed to draw the remonstrance seem to have been relieved of the necessity of reporting a paper, by the intelligence of the success of the mission of Benjamin Harrison as special commissioner, whereby a portion of the Continental army was ordered to the State. A paper enclosed by Edmund Pendleton to Mr. Madison in Congress, and supposed by Mr. Rives to have been the work of John Taylor, of Caroline County, was doubtless the report which the committee would have made. Not only because it might have been the report of Mr. Henry's committee, but because of its historical value, it is worthy of insertion. Speaking in the name of the Legislature it says:

"'Tis not from an impulse of vanity that they would remember past transactions, but it is necessary in order to wrest Virginia from that load of obloquy with which she hath been oppressed by those who rashly judge from detached facts, and not from a collective view of public transactions. Ere the war began we heard the cries of our brethren at Boston, and paid the tax due to distress. We accompanied our northern allies during almost every progressive stride it made, where danger seemed to solicit our ardor. We bled at Quebec, at Boston, at Harlaem, at White Plains, at Fort Washington, at Brandywine, at Germantown, at Mud Island, at White Marsh, at Saratoga, at Mon-

mouth, and at Stony Point. We almost stood alone at Trenton and Princeton, and during the winter campaign which followed. But when we came to look for our northern allies, after we had thus exhausted our powers in their defence, when Carolina and Georgia became the theatre of war, they were not to be found. We felt they were absent at Stono, at Savannah, at Charleston, at Monk's Corner, at Buford's defeat, at Lanneau's Ferry, at Camden, at King's Mountain, at the Cowpens, and at Georgetown. Whilst we are continuing our utmost exertions to repair the mighty losses sustained in defending almost every State in the Union, we at length find ourselves invaded, and threatened with the whole weight of the American war. When the Northern States were attacked the sluices of paper credit were not only opened, but the force of all America concentred to the point of danger. Now, Northern and Southern departments are formed, calculated more to starve the only active war than for the purpose of common defence. Let it be remembered that Georgia and South Carolina are lost, that North Carolina, in a state of uncertainty from continual alarms, cannot furnish supplies, and that Maryland hath only sent those of men.

"Virginia, then, impoverished by defending the Northern department, exhausted by the Southern war, now finds the whole weight of it on her shoulders. Even after these departments were formed, Congress called for, and by a great exertion on our part actually received, half a million for the Northern army. The war having converted its rage from the Northern to the Southern States, the former, thus exonerated from the immediate obligations of the Union, might have seized the opportunity of completing their levies, which would have enabled them to return with accu-

mulated vigor to our assistance. But they were employed in availing themselves of resolutions of Congress, by which they got rid of their State paper at the expense of the Union, while Virginia was left struggling under that unwieldy load, from which no exertions could disengage her, during the continuation of those enormous expenses she was forced to yield to, or leave the Southern war to expire through famine.

"Thus situated, our only resource is the wretched one of more paper money, in addition to enormous taxes, which are the more peculiarly distressing as they must be collected while near ten thousand of our citizens, exclusive of our regular troops, are in the field. A tax of four and a fourth per cent. on a specie valuation of property, a tax of thirty pounds of tobacco and two bushels of corn on each tithable; a tax of three thousand beeves; a tax of three thousand suits of clothes; a tax of seventy-four wagons and teams, besides many occasional seizures and other collateral dues, all paid or to be paid in the present year, do, when added to the emissions of twenty-one millions of pounds in three months, prove that Virginia hath not been unmindful of the extraordinary efforts expected from her. Thus exhausted with our former exertions, thus straining every nerve in present defence, pressed with a great hostile army, and threatened with a greater—beset with enemies both savage and disciplined—the Assembly of Virginia do, in behalf of their State and in behalf of the common cause, in the most solemn manner summon the other States to their assistance. They demand aids of men, money, and every warlike munition. If they are denied, the consequences be on the heads of those who refuse them. The Assembly of Virginia call the world and future generations to witness that they have done their duty, that they have prosecuted the war with ear-

nestness, and they are still ready so to act, in conjunction with the other States, as to prosecute it to a happy and glorious period."[1]

The legislation of this short session was most vigorous, and showed that the State was determined to put forth all her energies to meet her invaders. As usual Mr. Henry was the leader of the body. Among the acts may be mentioned those for raising two legions for State service to serve during the war, each to be composed of six companies of infantry and one of cavalry, of one hundred men to the company; for emitting not exceeding fifteen million pounds in treasury notes, redeemable in specie at forty to one, and legal tender except for specific contracts for specie; for ascertaining the number of militia in the State; to remedy the interruption to the acts in aid of the Continental service caused by the invasion; and to suspend the taxes levied on persons in active militia service.[2]

An inquiry into the condition of the office of Colonel George Muter, commissioner of the war office, resulted in his removal for inefficiency, and the appointment of Colonel William Davies in his stead.

Very handsome resolutions of thanks were voted to General Morgan and his men for their victory on January 17, and the Governor was requested to procure and present to General Morgan a horse with furniture and a sword, as a further testimonial of the high esteem of his country. These appear to have been on the motion of Mr. Henry.

An inquiry disclosed the fact that the records of

[1] Rives's Life of Madison, i., 276. [2] Hening, x., 391–405.

the General Assembly subsequent to the year 1774 were removed during the late incursion, and had since been returned without loss, but that the legislative records previous to 1774 were unavoidably left to the mercy of the enemy; that they sustained little or no loss, but were left by the enemy totally deranged and dissorted, requiring great labor to readjust and assort them. This the clerk was directed to do, and for that purpose was exempted from military duty.

A curious controversy sprung up at this session between the Senate and the House. On March 13, the Senate sent a special message by Francis Lightfoot Lee, who probably moved it, stating that they had rejected the bill of supply sent them by the House because of two clauses foreign to the bill, one making the money to be emitted legal tender, the other making it felony to forge the notes. Mr. Henry was the chairman of the committee to which this message was referred, and on the next day he reported a reply to the Senate which settled the question, and the conduct of the two Houses touching supply bills, as long as the constitution lasted. The entry on the Journal is as follows:

"Mr. Henry reported from the committee to whom was referred the written message of the Senate, dated March the 13th, 1781, respecting their rejection of a supply bill, that the committee had according to order had the same under their consideration, and agreed upon a report, and come to several resolutions thereupon, which he read in his place, and afterwards delivered in at the clerk's table, where the same were again read and are as followeth:

"It appears to your committee that all bills of supply, by which are meant money bills, ought to be formed by the House of Delegates, and can undergo no alteration or amendment in the Senate, but must be wholly agreed to there or rejected. That this exclusive power over supply bills would prove highly prejudicial to the commonwealth, unless the constitution that gave it made it competent to the purpose of granting supplys adequate in their nature and quality to the exigences of the State; that in conformity to this system the many bills of supply passed since the revolution have uniformly proceeded, carrying with them the usual clauses making the money a tender, and inflicting penalties on persons guilty of counterfeiting. That the House of Delegates have ever continued in the undisputed power of thus forming their money bills, scarcely a session passing without an instance of it. Nor does the written message of the Senate sent to the Delegates last session dispute the propriety or right of exercising such a power over money bills, but asserts in general that the bill of supply then passed contained several clauses improper for such a bill, without specifying the offensive clauses. On perusing that bill it is observable that sundry parts of it relate to matters extrinsic to the business of mere supply, and particularly that one clause of it enacts that Continental and State money, formerly emitted, shall be exchangeable for other moneys at the treasury, and another, that certain certificates of seizure or impress shall be payable for taxes due from the possessors of them. Against these, which appear extraneous to the nature of a supply bill, it is to be presumed the exception was intended to apply. That the constitution which gives to the House of Delegates certain exclusive powers over money bills, is vain and nugatory unless the money is guarded against

counterfeits, and has its common attributes to give it currency; and the Senate now claiming a power over these attributes and the several matters necessary for its currency, will leave to the Delegates only a power which cannot be exercised without destroying all public credit; that is, to issue the public supplys in a money which shall not have the property of payment in debts or taxes, and which may be counterfeited at pleasure. Whereupon your committee came to the following Resolutions, viz:

"*Resolved*, that the two clauses of the money bill sent to the Senate on the 12th instant and referred to in their message of yesterday, are not foreign to the subject of the said bill, as the said message asserts, but are essential to it.

"*Resolved*, That the claims of the Senate to a right of objection to a money bill because it gives the property of tender to the money and secures it from counterfeits, are not warranted by the constitution, and are contrary to established usage.

"Agreed to."

When Cornwallis retired to Wilmington, Greene made a masterly move by advancing into South Carolina. He found that the people in the Carolinas welcomed him as a deliverer. The conduct of the British in these States, as in Virginia, had not only irritated the Whigs but disgusted the Tories. James Madison, who was not given to exaggeration in his descriptions, thus characterizes it in a letter to Philip Mazzei, July 7, 1781:

"No description can give you an adequate idea of the barbarity with which the enemy have conducted the war in the southern states. Every outrage which humanity could suffer has been com-

mitted by them. They have acted more like desperate robbers or buccaneers than like a nation making war for dominion. Negroes, horses, tobacco, etc., not the standards and arms of their antagonists, are the trophies which display their success. Rapes, murders, and the whole catalogue of individual cruelties, not protection and the distribution of justice, are the acts which characterize the sphere of their usurped jurisdiction. The advantage we derive from such proceedings would, if it were purchased on other terms than the distresses of our citizens, fully compensate for the injury accruing to the public. They are a daily lesson to the people of the United States of the necessity of perseverance in the contest; and wherever the pressure of their local tyranny is removed the subjects of it rise up as one man to avenge their wrongs and prevent a repetition of them."[1]

Aided by Lee, Sumter, and Hampton, Greene entered upon an arduous and checkered campaign against Lord Rawden and Colonels Cruger and Coates, which ended in the recovery not only of both Carolinas but of the greater part of Georgia.

The movement of Greene toward South Carolina gave Cornwallis the greatest embarrassment. If he attempted to follow him he was in danger of being hemmed in among the rivers, in a country exhausted of supplies and having a hostile population. His army had been reduced to fourteen hundred and thirty-five men, and all hope of successful operations against North Carolina had been abandoned. He hesitated for some days, but finally determined to unite his forces with those of General Phillips in Virginia, and by a serious attack upon that State to

[1] Madison's Works, i., 49.

withdraw Greene from the South for its protection, or else to cripple its resources so as to render it no longer the support of the war in the South. He had already expressed his views in a letter to Germain, April 18, in which, after confessing his inability to reduce North Carolina, he adds:

"If therefore it should appear to be the interest of Great Britain to maintain what she already possesses, and to push the war in the southern provinces, I take the liberty of giving it as my opinion, that a serious attempt upon Virginia would be the most solid plan. Because successful operations might not only be attended with important consequences there, but would tend to the security of South Carolina, and ultimately to the submission of North Carolina. The great re-enforcements sent by Virginia to General Greene, while General Arnold was in the Chesapeake, are convincing proofs that small expeditions do not frighten that powerful province."[1] And as he afterward expressed it, he "was most firmly persuaded, that until Virginia was reduced, we could not hold the more southern provinces; and that after its reduction they would fall without much resistance, and be retained without much difficulty."[2]

But without waiting to have his views approved by Clinton, and, as it turned out, against his wishes, he left Wilmington April 24, and arrived at Petersburg May 20. Here he found the army of Phillips waiting for him, with Arnold in command, their general having died of fever within four days after occupying the town. The traitor was again super-

[1] Clinton and Cornwallis Controversy, i., 417-8.
[2] Answer to General Clinton, published in 1783.

seded, and, to the great relief of the British army, sailed for New York.

The union of Cornwallis with the Virginia army of invasion gave his Lordship nearly five thousand men, and he was further re-enforced by a detachment from New York of seventeen hundred.[1] To oppose this force, Lafayette had only about one thousand regulars, two thousand militia, and fifty dragoons.[2] He was daily expecting Wayne with nine hundred Pennsylvania regulars, and he was promised further militia re-enforcements. The number of militia was limited by the want of arms to put into their hands. The State had disfurnished herself in her patriotic endeavor to aid her sister States and the Continental army, and her scanty supply was well-nigh exhausted when her hour of need came. Fortunately, eleven hundred stand of arms, which had been sent on board of the French fleet, and were carried back to New Port when that fleet returned after its engagement at the Capes, were sent overland and soon came to hand, enabling the increase of the militia by that number. The situation of the State is described in a letter of the Governor to Washington, May 28, as follows:

"A number of privateers which are constantly ravaging the shores of our rivers, prevent us from receiving any aid from the counties lying on our navigable waters; and powerful operations meditated against our western frontier, by a joint force of British and Indian savages, have, as your Excellency before knew, obliged us to embody between two and three thousand men in that quarter. Your

[1] Clinton to Cornwallis, April 30, 1781. Clinton and Cornwallis Controversy, i., 443.

[2] Irving's Washington, iv., 286.

Excellency will judge from this state of things, and from what you know of our country, what it will probably suffer during the present campaign."

Upon reaching Petersburg Cornwallis found letters from Clinton to Phillips which showed that he had no hope of subduing Virginia by the campaign, and only expected to cripple her resources. To this end his Lordship now addressed himself. Sending two of his regiments to hold Portsmouth, he crossed the James at Westover, in pursuit of Lafayette, who, unwilling to risk a battle with such a disparity of forces, moved northward to meet Wayne, who had not as yet joined him with the Pennsylvanians. "The boy cannot escape me," was the boast of the able and experienced Englishman, as he started in pursuit of the youthful Frenchman. But he had mistaken his opponent. Lafayette with unexpected caution avoided an engagement, and soon effected a junction with Wayne. Cornwallis, having stopped his vain pursuit in the upper portion of Hanover County, betook himself to plundering the country. From his camp on the banks of the North Anna he sent out two detachments, one of infantry southerly, under Lieutenant Simcoe, to destroy the stores collected at the Point of Fork, the confluence of the Rivanna and James, where Baron Steuben was stationed in charge of an arsenal, with five hundred recruits for Greene's army; and the other of cavalry westerly, under Colonel Tarleton, to capture the legislature and State officers, assembled at Charlottesville. He ordered Tarleton to join Simcoe after occupying Charlottesville, and he himself moved to the mouth of Byrd's Creek on the James, near the

Point of Fork, to support these detachments. Simcoe found Steuben had crossed the James with his stores because of information of the movements of the British. By a stratagem he convinced him that the whole of Cornwallis's army was pressing him. Steuben thereupon marched rapidly on the road by Cumberland Court-House on his way to North Carolina to join Greene, and left his stores to the enemy.

Tarleton moved with two hundred and fifty mounted men in the direction of Louisa Court-House with great rapidity, making a march of seventy miles in twenty-four hours. Near Louisa Court-House he fell in with and destroyed a wagon train loaded with clothing and arms for Greene's army. In passing the Cuckoo tavern in Louisa County his force was seen by John Jouette, who suspecting its destination, mounted one of the blooded horses which were so often found in Virginia, and leaving the public highway, rode by the most direct route, at the top of his speed, to Charlottesville, where he gave the alarm in time to prevent the surprise and capture of the Assembly and the Governor. Tarleton turned aside on his rapid march to capture some men of prominence who were at the houses of Dr. Thomas and John Walker. At Dr. Walker's he found Colonel John Syme, half-brother of Patrick Henry and a member of the Virginia Senate, and Judge Peter Lyons. These gentlemen were surprised in their beds. It is related as an instance of Tarleton's humor, that when Colonel Syme, who was remarkably homely, was brought from his bedroom undressed, and with dishevelled hair, the celebrated cavalry man threw himself into the attitude

of Hamlet upon discovering his father's ghost, and exclaimed:

> "Angels and ministers of grace, defend us!
> Be thou a spirit of health, or goblin damned?"

At John Walker's, Captain Kinlock, who commanded the detachment, captured his cousin, Francis Kinlock, a member of Congress from South Carolina, and William and Robert Nelson, brothers of General Nelson. Mr. Kinlock had met in Philadelphia Eliza, the daughter of John Walker who was a member from Virginia. He was at Mr. Walker's, pressing his suit for her hand, when Tarleton's troopers unceremoniously interfered. It was his good fortune afterward to regain his liberty and to win his ladylove.

When the British arrived at Charlottesville, they found the Legislature had left for the town of Staunton, and the detachment sent to Monticello, the Governor's residence in the neighborhood, arrived too late to capture him. After destroying all in the town which he deemed of value to the State, Tarleton marched, under orders from Cornwallis, to destroy the stores at Albemarle Old Court-House, and afterward to cross the Fluvanna in pursuit of Steuben. Lafayette had now formed a junction with Wayne, and moving along a disused road, he threw himself between Tarleton and the threatened stores, taking up a position too strong to be successfully attacked. Here he was soon reinforced by Colonel William Campbell with a body of riflemen from Washington County. Tarleton finding himself baffled, and that Steuben had been recalled from his march toward the Carolinas, and was

taking a circuitous route to join Lafayette, turned toward the camp of Cornwallis on the farm of Mr. Jefferson, near the confluence of the Rivanna and the James, where his Lordship was plundering and destroying the property of the absent owner. Cornwallis, believing that Lafayette was now strong enough to take the offensive, marched toward the lower country, entering Richmond on June 16, and after two days' rest there, moving toward Williamsburg. Here he received a letter from Clinton, dated June 11, informing him that he feared an attack from Washington upon New York, and desired a large portion of the troops in Virginia to be sent to him. He advised Cornwallis to take up a defensive position in a healthy situation, suggesting Williamsburg or Yorktown. In order to obey this requisition, his Lordship determined to cross the James and proceed to Portsmouth, whence he might ship the troops. Moving to James Town Island, that he might cross the river there, his rear was attacked by Lafayette, who had been purposely misled into the belief that most of the British army had been sent across the river. The engagement was upon ground disadvantageous to the Americans, and resulted in their repulse. Cornwallis, however, did not pursue, but transported his army across the river to Cobham. On July 9, he detached Tarleton with his legion and eighty mounted infantry to Prince Edward Court-House, and thence to Bedford County, with orders to destroy all public and private stores, leaving only enough of the latter for the bare subsistence of the families who owned them; and also to intercept any troops or prisoners coming northward from Greene's army. Tarleton

executed his orders with his usual vigor, marching by Amelia, Prince Edward, and Charlotte Court-Houses, and making four hundred miles in fifteen days. At the end of that time he rejoined a division of the British army left at Suffolk, having returned by way of Lunenburg and Brunswick Counties. He tells us that in this expedition "The stores destroyed, either of a public or private nature, were not in quantity or value equivalent to the damage sustained in the skirmishes on the route, and the loss of men and horses by the excessive heat of the climate."[1] The stores collected at Prince Edward Court-House had been sent south more than a month before, and Greene, instead of sending troops northward, was besieging the post at Ninety-six. But Tarleton destroyed much private property, and arrested and paroled all the citizens he could reach.

Upon this march there occurred, in that part of the county of Amelia which is now Nottoway, an incident which was one of the favorite tales related of the British invasion of Virginia. There lived in the county of Buckingham, as an indentured servant of Anthony Winston, an uncle of Patrick Henry, Peter Francisco, who was supposed to be a Portuguese by birth. He was of large stature, and giant strength, and many wonderful feats are related of him in the county in which he lived. At sixteen he enlisted in the American army, and greatly distinguished himself at the storming of Stony Point, and in the battles of Brandywine, Monmouth, Cowpens, Camden, and Guilford. In the summer of 1781, he was in Virginia, and reconnoitred the force

[1] Tarleton's Campaigns of 1780-81, 359.

of Tarleton as it passed through Amelia. While thus engaged, he stopped at the house of a Mr. Wand, said to be now known as Moore's Ordinary, on the Richmond & Danville Railroad, and was surprised by a squad of nine of Tarleton's cavalrymen and three negroes. He yielded himself a prisoner, and seeming to be peaceable, they went into the house, leaving him under guard of the paymaster of the legion. The guard discovering his prisoner had on a pair of heavy silver shoe-buckles, demanded them. Francisco replied that they were the gift of a valued friend, and he could not give them away; but as he was in his power, he could but submit if they were taken from him. The guard, on hearing this, put his sabre under his arm and bent down to take them off. Francisco seized the handle of the sabre and, drawing it rapidly, struck his guard a heavy blow across the head. The wounded man attempted to fire his pistol at the prisoner, but another blow from his own sabre nearly severed his pistol hand, and caused the bullet to miss its aim. One of the dragoons with a musket, brought him by Wand, mounted a horse and attempted to shoot Francisco. It missed fire, and Francisco rushed upon him, took the musket away, and wounded him. The others were afraid to approach the giant, now well-armed. Tarleton's legion in the meantime came in sight, and all was hurry and confusion, which was increased by Francisco's crying out, as if to comrades, "Come on, my brave boys, now is your time, we will soon despatch these and then attack the main body." The dragoons fled panic-struck to the troop, leaving their horses behind. Although Tarleton sent ten mounted men in pursuit of him, Francisco suc-

ceeded in eluding them, and the next day returned to Wand's for his horses.

On the return of Tarleton, Cornwallis moved to Portsmouth, but before he embarked the troops asked for by Clinton he received another letter from him, dated July 11, countermanding the order, and directing him to repass the James, and occupy Old Point Comfort. In a letter of July 15, Clinton assured his Lordship, that it had ever been his opinion that the Chesapeake should be held by the British, and advised that a defensive station be established on that Bay, from which desultory movements by land and water should be sent out.[1] Cornwallis sent an engineer with the captains of the ships in the Bay, to examine Point Comfort, and upon their report, disapproving of it as a situation suited for fortification or to cover shipping, he determined to proceed to Yorktown and occupy that post. By August 22, the whole British army in Virginia was transported to that place. Lafayette now moved to Malvern Hill,[2] near the Chickahominy, and afterward to Williamsburg, where he was joined by a force landed from the French fleet. From Williamsburg he marched to the siege of Yorktown.

The damage done to Virginia by this invasion has never been accurately determined, although the Legislature afterward attempted to estimate it. It is believed that thirty thousand slaves were carried off, and ten million dollars worth of other property was destroyed.[3] All the horses that could be found

[1] Tarleton's Campaigns, 404–6.

[2] Famous for a battle fought during the late war.

[3] Girardin, History of Virginia, 504.

were taken away, and the throats of the colts were cut.

It was believed at the time that the advance of the enemy might have been checked on the threshold of the invasion, had the resources of the State been properly managed, but for some time after they appeared everything connected with the war department was in the greatest confusion. The currency had depreciated so as to be almost worthless in obtaining supplies, and in some parts of the State the impressing officer and the enrolling officer had exhausted the patience of the people, and commotions had arisen. The keeping up of a force on the frontier to meet the Indian incursions, and the continued sending of men and supplies to General Greene's army, added to the exhaustion of the State, which, except for the small force of regulars under Lafayette, was left to defend herself. On July 7, General Weedon wrote: "I have not a doubt but the Old Dominion will extricate herself with equal honor, notwithstanding her neighbors have set with folded arms while she was so cruelly pressed; but who is afraid? The more danger, the more honor; steady and spirited exertions for a few months longer will do our business."[1]

These steady and spirited exertions were being made by the then Governor, Thomas Nelson, Jr., and by Colonel William Davies, a son of the celebrated Presbyterian divine, Samuel Davies, who had been put at the head of the war department of the State, and whose ability was bringing order out of confusion.

Governor Nelson, in a letter to Washington, July

[1] Calendar of Virginia State Papers, ii., 209.

27, 1781,[1] in giving an account of the invasion wrote: "They never have indicated an inclination to fight, not even Lord Cornwallis. Tarleton, by sudden incursions into those parts of the country that he knew were not in arms, has collected a number of horses, that have enabled him to run about, paroling citizens whom he has taken in their beds. Lord Cornwallis has marched through the Carolinas and part of Virginia, which may give him great éclat, but as soon as we collected such a force as would enable us to oppose him, he faced about and retreated with the greatest precipitation. That they have done great injury, both public and private, is certain, but I have this consolation, that he is further from the conquest of Virginia than when he entered it. I do not believe ten men have joined him, which must mortify him not a little. They have made Whigs of Tories."

The State papers published in the second volume of the Calendar, which embraces the year 1781, are a lasting memorial of the patriotism of the Virginians, and the great difficulties and privations under which they labored. Had they had arms, it is very certain the British would have been driven from the State soon after they entered it. As an example of the service demanded of the people, and the readiness with which they complied with the demand, the county of Charlotte, lying on the Staunton, may be taken. Colonel Thomas Read, the county lieutenant, wrote April 4, 1781, on getting a requisition for one hundred and fifty-six armed men to be sent to General Greene, that, "not more than arms enough for a sergeant's guard can be gotten in the entire

[1] Calendar of Virginia State Papers, ii., 258.

county," and he adds the strength and disposition of the militia force of the county, as follows: "Militia, rank and file, 565. Now on duty, 342, with General Greene; volunteers with General Lawson as cavalry, 70; remainder 153, three short of the requisition." On April 7, he wrote again on the subject, saying, "Should the order for sending 156 men to the southward be repeated, it shall be obeyed," and on April 28, he wrote offering 100 men just returned from Greene's army, to march to meet Cornwallis.[1]

The public credit had become so low from depreciation of the over-issues of paper money, that the officers in many instances pledged their own credit to obtain the necessary food and clothing for their men; and yet Robert Morris, at the head of the Continental finances, so far from being able to help, was calling on Virginia for contributions to the Continental treasury. When during the summer Washington was contemplating an increase of the Continental army under Lafayette, Morris wrote to Governor Nelson August 23,[2] and after referring to the requisitions on Virginia, adds: "This at least is certain, that I have the command of no money from the several States, which will serve to maintain a force in Virginia. Much, therefore, must depend on the provisions and forage which that State can call forth. It is necessary for me to inform the General what reliance can be made on your resources, and it is also necessary that this information should be just."

[1] Calendar of Virginia State Papers, ii., 13 and 17, and 76.
[2] Idem, ii., 351.

CHAPTER XXIX.

CLOSE OF THE REVOLUTION.—1781.

Legislature Meets in Richmond and Adjourns to Charlottesville.—Efficient Measures Carried by Mr. Henry.—Adjournment to Staunton.—Alarm There.—General Thomas Nelson Elected Governor.—Inquiry into the Conduct of Mr. Jefferson as Governor Ordered.—Dissatisfaction with Baron Steuben.—Scheme of a Dictator Proposed.—Mr. Jefferson and the Legislature.—Active War Measures Under the Leadership of Mr. Henry.—Address to Congress.—Number of Virginia Troops.—Charge of John Taylor against Mr. Henry.—Patriotism of Governor Nelson.—Mutiny of Pennsylvania Troops.—Siege of Yorktown.—Surrender of Cornwallis.—Close of the Revolution.—Mr. Henry's Part in it.—Effect upon the Governments in Europe and America.

On May 7, while Cornwallis was on the march from Wilmington to Petersburg, a few of the members lately elected to the Virginia Legislature met, pursuant to law, at Richmond. Finding the place in danger from the enemy, they adjourned to Charlottesville, where a quorum was not obtained till the 28th. Mr. Henry was present on that day, and at once entered, with all his energy, upon the measures necessary for the defence of the State. He was a member of a committee which forthwith reported that Lafayette should be empowered to impress the horses necessary for his army, and this authority was given by the House on the first day of its session. On the next day, in committee of the whole, the House resolved that in view of the fact that there was not in the State an army of

regulars sufficient to repel the invaders, nor could one be gotten in time, that the Governor be desired to order out a sufficient number of militia for the purpose, the men to bring with them such arms as they could procure; that all the men raised for Greene's army be detained, with the arms they had, in the State; that martial law be declared within 20 miles of the armies; and that Congress, Pennsylvania, and Maryland be requested to give immediate aid to the State. Mr. Henry was on the committee to prepare the addresses asking for aid.

On May 30, on motion of Mr. Henry, post-riders were ordered who should keep them informed of the state of the war within the borders of the commonwealth. On the same day a bill was introduced, in response to a resolution of Congress, authorizing that body to levy a duty on certain goods and merchandise, and also on all prizes, in order to replenish the empty Continental treasury.

Of the standing committees of the body appointed the next day, Mr. Henry was made chairman of the one on Privileges and Elections, and a member of the one on Courts of Justice.

On Saturday, June 2, on the motion of Mr. Henry, General Morgan, who had left Greene's army, was invited to take charge of the men ordered to be raised for the defence of the State, and to act under Lafayette; and a committee, of which Mr. Henry was chairman, was appointed to consider the most speedy and effectual measures for procuring arms and military stores. This being the last day of Mr. Jefferson's term as governor, his successor was to have been elected, but rumors of the approach of the enemy determined the body to post-

pone the orders of the day, and to adjourn till Monday, and in case the place was then in the hands of the British, to meet on the 11th instant at Penn's Ordinary, in Amherst County. On Monday the House hastily met after the arrival of Mr. Jouette with intelligence of the approach of Tarleton, and adjourned to meet on the next Thursday at Staunton, in Augusta County.

Many incidents are related of the hasty retreat of the grave legislators on the approach of the famous British partisan. One of the most interesting, as showing the almost idolatrous regard of the people for Mr. Henry, is found in Abel's "Life of John Tyler." It is as follows:[1]

"On their way thither (to Staunton) many of the country people were met, two or three upon a horse, riding in to the defence of the town (Charlottesville), the news of Tarleton's march having already spread over the neighboring country. Late in the day Messrs. Henry, Tyler, Harrison, and Christian, who had ridden together, fatigued and hungry, stopped their horses at the door of a small hut in a gorge of the hills, and asked for refreshments. A woman, the sole occupant of the house, inquired of them who they were, and where from. 'We are members of the Legislature,' said Mr. Henry, 'and have just been compelled to leave Charlottesville on account of the approach of the enemy.' 'Ride on, then, ye cowardly knaves,' replied the old woman, in a tone of excessive indignation. 'Here have my husband and sons just gone to Charlottesville to fight for ye, and you running away with all your might. Clear out—ye shall have nothing here.' 'But,' Mr. Henry re-

[1] See Letters and Times of the Tylers, i., 81.

joined, in an expostulating tone, 'we were obliged to fly. It would not do for the Legislature to be broken up by the enemy. Here is Mr. Speaker Harrison; you don't think he would have fled had it not been necessary?' 'I always thought a good deal of Mr. Harrison till now,' the old woman answered; 'but he'd no business to run from the enemy,' and she was about to shut the door in their faces. 'Wait a moment, my good woman,' again interposed Mr. Henry; 'you would hardly believe Mr. Tyler or Colonel Christian would take to flight if there were not good cause for so doing.' 'No, indeed, that I wouldn't,' she replied. 'But Mr. Tyler and Colonel Christian are here,' said he. 'They here? Well, I never would have thought it,' and she stood a moment as if in doubt, but finally added, 'No matter; we love those gentlemen, and I didn't suppose they would ever run from the British, but since they have, they shall have nothing to eat in my house. You may ride along.' As a last resort, Mr. Tyler then stepped forward and said, 'What would you say, my good woman, if I were to tell you that Patrick Henry fled with the rest of us?' 'Patrick Henry! I would tell you there wasn't a word of truth in it,' she answered angrily; 'Patrick Henry would never do such a cowardly thing.' 'But this is Mr. Henry,' rejoined Mr. Tyler, pointing him out. The old woman looked astonished. After a moment's consideration, and a convulsive twitch or two at her apron string by way of recovering her scattered thoughts, she said, 'Well, then, if that is Patrick Henry, *it must be all right.* Come in, and ye shall have the best I have in the house.' Perhaps no higher compliment was ever paid to the patriotism of Patrick Henry, than this simple tribute of praise from the mouth of that poor but noble woman."

A few of the members fell into the hands of the enemy, but the body reassembled according to adjournment in Staunton, on June 7. They were soon to be again disturbed by rumors of Tarleton's advance, which originated in a manner characteristic of war rumors. The late judge Francis T. Brooke, of the Virginia Court of Appeals, relates in a memoir, that being a young lieutenant he was ordered to lead a detachment to Staunton, and crossed the mountains near Waynesboro. He adds: "At that time I suppose a regimental coat had never been seen on that side of the mountain—nothing but hunting shirts. I marched with drums beating and colors flying, and some one seeing the troops, carried the news to Staunton that Tarleton had crossed the mountain, and the Legislature then sitting there ran off again; but learning the mistake, rallied and returned the next day. In the morning I entered the town."

Waynesboro is at the foot of the mountain on the north side, and twelve miles from Staunton.

On Sunday, June 10, the Journal shows that the House met according to adjournment which was to 10 o'clock A.M., and resolved "that this House do adjourn until to-morrow morning, 10 o'clock, then to meet in this place; but if there shall appear danger in so doing from the enemy, that then this House be adjourned until Thursday next, then to meet at the Warm Springs in this county;" and they further empowered the Speaker in case of necessity, to appoint any other time and place for the meeting.

On the next day, Monday, June 11, the House met, apparently at the usual hour, 10 o'clock, and

Mr. Henry offered the first resolution, which was one directing the commercial agent to purchase, without delay, arms and munitions of war, with the assurance that the State would make punctual payment for the purchases.[1] It appears, from the evidence collected by Hon. J. A. Waddell in his "Annals of Augusta County," that the alarm was spread on Sunday, and on that day reached Tinkling Spring Church, between Waynesboro and Staunton, where a congregation was assembled,[2] which at once sought arms and repaired to Rockfish Gap.

Taking the statement of Judge Brooke and the evidence collected by Mr. Waddell, in connection with the Journal of the House, it appears that the alarm reached Staunton on Sunday morning, and caused the House to meet and order an adjournment to the Warm Springs in case the rumor proved to be true; and that the next morning found the body at Staunton, the rumor having been discovered to be false during Sunday. This is inconsistent with the tradition, preserved by some writers, which fixes the alarm during the night, and makes Mr. Henry one of the fugitives who left Staunton before daybreak. By his being in his place early Monday morning, it is most probable that he never left the town at all, certainly not within a few hours of the meeting of the House.

On June 12, the body proceeded to the election of a Governor and three new members of the Council, the State having been for ten days without an executive head, except Colonel William Fleming, who, being a member of the Council, remained with the Legislature and acted as Governor.

[1] Journal, p. 13. [2] Waddell's Annals of Augusta County, 182.

Mr. Jefferson had retired to his farm in Bedford County upon the approach of Tarleton to Charlottesville, his term of office having expired two days before. In a letter to General Washington, written May 28, he had said: "A few days will bring to me that relief which the constitution has prepared for those oppressed with the labors of my office, and a long-declared resolution of relinquishing it to abler hands has prepared my way for retirement to a private station."[1] When the election was had, however, Thomas Nelson, Jr., and John Page (of Rosewell) were put in nomination in the House, and Mr. Jefferson in the Senate.[2] General Nelson was elected on the first ballot. Immediately after the announcement of the result, the following resolution appears on the Journal, offered by George Nicholas, one of the representatives of Albemarle, Mr. Jefferson's county:

"*Resolved*, That at the next session of Assembly an inquiry be made into the conduct of the Executive of this State for the last twelve months."[3]

Edmund Randolph says of this motion, and of the dissatisfaction with the military conduct of Baron Steuben:[4] "At this session of the Assembly the usual antidote for public distress was resorted to. Two persons were named with acrimony, as delinquent: Baron Steuben, for not having succeeded in protecting the stores in the vicinity of the Point of Fork, and Thomas Jefferson, the gov-

[1] Jefferson's Complete Works, i., 311.
[2] Original note of proceedings made by the clerk. MS.
[3] Journal, 15.
[4] MS. History of Virginia.

ernor at the time of Arnold's invasion, as not having made some exertions which he might have made for the defence of the country. . . . Colonel George Nicholas and Mr. Patrick Henry were those who charged Mr. Jefferson. They aimed to express themselves with delicacy toward him, without weakening the ground on which they supposed that their suspicions would be found ultimately to stand. But, probably without design, they wounded by their measured endeavor to avoid the infliction of a wound. Colonel Nicholas moved, however, for an inquiry into the conduct of the governor at the succeeding session. The motion was carried with the concurrence of his friends and his foes; of the former to afford him an opportunity for exculpation, of the latter, who conceived him to be ruined."

The feeling as to Baron Steuben led to a resolution, introduced by John Page, requesting Lafayette "to inquire into the conduct of all persons under his command supposed to have been instrumental in the loss of the stores at Point of Fork." [1]

Mr. Jefferson afterward obtained from Mr. Nicholas a copy of the objections to his official conduct upon which he had based his motion, and furnished him an answer to each. He did more, he so ingratiated himself with Mr. Nicholas, that he not only publicly acknowledged that he had acted hastily, but became one of the warmest of Mr. Jefferson's personal and political friends.[2] It was far different with Mr. Henry. The friendship between the two was interrupted, never to be re-

[1] Journal for June 22, 1781, p. 29.
[2] Randall's Life of Jefferson, 353–360.

stored. No word of bitterness is known to have escaped Mr. Henry's lips regarding Mr. Jefferson, while in public he did justice to his great talents and to his services to his country. But Mr. Jefferson seems never to have forgiven Mr. Henry, and while admitting his talents and services as a leader of the revolution, he seldom failed to depreciate him as a man, by statements now shown to be without foundation.

During the year 1781, while in retirement in Bedford County, Mr. Jefferson wrote his "Notes on the State of Virginia." In this volume he displays a great deal of feeling against the then existing Legislature in discussing the Constitution of the State. He charges on some of the members of the Legislature of 1776 the scheme of a Dictator, and adds: "And in June, 1781, again under calamity, the same proposition was repeated, and wanted a few votes only of being passed." Of the advocates of the measure he says: "Most of them meant well, for I know them personally, had been their fellow-laborers in the common cause, and had often proved the purity of their principles." This leaves the impression that he thought some of the advocates did not mean well, but he mentions no names to indicate who were the advocates, or who was the person they had in view.

Eighteen years after Mr. Henry's death, however, he allowed Girardin, who wrote under his eye, and with his approbation,[1] not only to insinuate that Mr. Henry was the proposed Dictator, but to state that the charges against Mr. Jefferson were concocted

[1] Appendix to History of Virginia, xi. See Mr. Jefferson's endorsement of the author as to all he wrote concerning his term in his autobiography.

to get him out of the way of the scheme. The writer gives the following account of the failure of the plot:

"But the impeachment, sour as was the temper of the Legislature, failed to produce the two ends it had in view, namely, to put down Mr. Jefferson and to put up the project for a Dictator. The pulse of the Assembly was incidentally felt in debates on the state of the commonwealth, and out of doors by personal conversations. Out of these a ferment gradually arose, which foretold a violent opposition to any species of dictatorship, and, as in a previous instance of a similar attempt, the apprehension of personal danger produced a relinquishment of the scheme. Whilst these things were going on at Staunton, Mr. Jefferson was in Bedford, and neither interfered nor was applied to by the Assembly for information touching the charges against him; but as soon as the project for a Dictator was dropped, his resignation of the government appeared. This produced a new scene, many of the members talked of re-electing him. Several of his warmest friends strenuously opposed it, upon the grounds that, as he had divested himself of the government to heal the divisions of the Legislature, at that perilous season, for the public good, and to meet the accusation upon equal terms, for his own honor, his motives were too strong to be relinquished, and too fair to be withstood. Still, though General Nelson, the most popular man in the State, and without an enemy in the Legislature, was nominated, a considerable portion of the Assembly voted for Mr. Jefferson. The two considerations just stated alone prevented his re-election."

This passage is contradictory of the statement in the "Notes," that the scheme of a Dictator wanted a

few votes only of being passed, but in other particulars it is proved to be false by the record, and by Mr. Jefferson's letter to Washington of May 28, previous. That letter shows that Mr. Jefferson's desire not to offer for re-election had been announced long before the end of his term, and the Journal shows that no motion was made to inquire into his official conduct until after the election at which General Nelson had defeated him and John Page, both regularly nominated for Governor. A contemporaneous letter written from Staunton, June 9, 1781, by Captain H. Young, of the Quarter-master's department, to Colonel William Davies, of the Board of War, shows that the move for a Dictator was begun before the inquiry into Mr. Jefferson's official conduct; and completely disproves the statement that Mr. Henry was the person thought of by the movers. He writes:

"Two days ago Mr. Nicholas gave notice, that he should this day move to have a Dictator appointed. General Washington and General Greene are talked of. I dare say your knowledge of these worthy gentlemen will be sufficient to convince you that neither of them will, or ought to, accept such an appointment. General Wayne joined the Marquis yesterday with a very respectable corps—perhaps it might be the day before, accounts differ. We have but a thin house of Delegates, but they are zealous I think in the cause of virtue." [1]

We have also an account of the motion in a letter of Judge Archibald Stuart to Mr. Jefferson, September 8, 1818, among the Sparks MSS. at

[1] Calendar of Virginia State Papers, ii., 152

Harvard College. The writer states that he was present, in 1781, when George Nicholas proposed the appointment of General Washington as Dictator in Virginia, which was opposed by Mann Page and others. He adds: "When Mr. Nicholas sat down, Mr. Henry addressed the chair; he observed it was immaterial with him whether the officer proposed was called a Dictator, or Governor with enlarged powers, or by any other name, yet surely an officer armed with such powers was necessary to restrain the unbridled fury of a licentious enemy, and concluded by seconding the motion. . . . After a lengthy discussion the proposition was negatived. . . . I communicated these facts to you shortly after they took place."

On the same day that Mr. Nicholas gave notice of his proposed motion, the House indicated its opposition to it, by resolving that on the next Tuesday, the 12th, it would elect a Governor and new members of the Council. The enlargement of the powers of the new Executive seems to have been all that Mr. Henry desired.

The passage penned by Girardin is plainly an effort to account for the defeat of Mr. Jefferson upon grounds honorable to him, and dishonorable to his opponents. Its lack of truthfulness has been partly shown. But the question still remains whether Mr. Jefferson did his duty in protecting the State against Arnold's invasion, and in defending him in this matter, his apologists have not failed to institute comparisons with the conduct of his predecessor under similar circumstances. The facts give them no comfort, however, from this source.

In the case of Collier's invasion, Governor Henry

had no warning until the enemy entered the Capes, while Governor Jefferson was warned when the Arnold expedition was being prepared in New York. When the enemy entered the Capes Governor Henry received exact information within less than two days, through vessels he had posted to watch the entrance of the Bay, some of which engaged the ships which were detached from the British fleet;[1] while Governor Jefferson, who had discontinued the spy vessels, got his first information through a private letter written to another person, and was not assured of the destination of the fleet, nor indeed whether it was French or English, for two days afterward; at the Collier invasion Governor Henry had a regiment of regular troops posted so as to resist their landing at different points along the Bay, and to be easily concentrated for the protection of the capital; while Governor Jefferson had no such force. Governor Henry promptly assembled a sufficient force to prevent the advance of the enemy, 2,000 strong, farther than Suffolk, near the Bay. Governor Jefferson, on the contrary, did not assemble a sufficient force to meet half of that number of invaders, until they had taken Richmond, much farther in the interior, and were retiring after their work of destruction.

Mr. Jefferson, in his defence furnished to Mr. Nicholas,[2] admits the information received in December, and excuses himself for neglecting the warning on the ground that the embarkation of the

[1] Account of the Expedition by one with it, Virginia Historical Register, iv., 186. The Journal of the House of May 10, 1779, shows information of the hostile fleet which entered the Bay the evening of the 8th.

[2] Randall's Life of Jefferson, i., 354.

British was said to be for the southward, but not certainly for Virginia, and it was too expensive and harassing to call out the militia upon such an uncertainty. Even if this could excuse him for not calling out the militia at once, it would not excuse him for failing to send a swift vessel to the Capes, to watch and report the first appearance of the enemy coming in; and for not having everything ready to bring out the militia on the first warning. He in fact paid little or no attention to the warning sent him.

It is certain that Mr. Henry, in his censure of Governor Jefferson, was supported at the time by some of the most intelligent men in Virginia.[1] Mr. Jefferson himself, in his autobiography, admitted his inability to properly fill the office of Governor during the invasion, and on that based his "resignation," as he termed it, in favor of General Nelson. At the next session of the Assembly the war had virtually ended and independence had been won. All were in the highest state of exultation, and disposed to throw the mantle of charity over past errors. No one appeared to prosecute the charges against Mr. Jefferson. He arose in the House and read the "objections" furnished him by Mr. Nicholas, and his answers. And the body then passed a resolution which, as amended in the Senate, reads as follows:

"Resolved, That the sincere thanks of the General Assembly be given to our former Governor, Thomas Jefferson, Esq., for his impartial, upright,

[1] See letter of John Page to Colonel Bland, Virginia Historical Register, iv., 195, and Henry Lee's Memoirs of the War in the South.

and attentive administration whilst in office. The Assembly wish, in the strongest manner, to declare the high opinion which they entertain of Mr. Jefferson's ability, rectitude, and integrity as a chief magistrate of this commonwealth, and mean, by thus publicly avowing their opinion, to obviate and remove all unmerited censure."[1]

Mr. Henry was in his seat at the time, and did not vote against the resolution in the House, if he did not vote for it; as the Journal records that it was passed, "nemine contradicente." It was intended to soothe the wounded feelings of the author of the Declaration of Independence. But it was not intended to prevent, nor could it prevent, *merited censure* for any act of his administration.

Mr. Jefferson was not satisfied, however. His subsequent correspondence shows deep resentment,[2] which neither time nor philosophy mastered, as appears by his use of the pen of Girardin.

Having made the admirable selection of General Thomas Nelson for Governor, the Legislature proceeded to strengthen his hands by the most effective legislation, in all of which Mr. Henry appeared as the leader. Among the acts was one enlarging the powers of the executive, which invested the Governor and Council with but little less than dictatorial powers. It placed at their command all the forces and resources of the State, suspended the writ of *habeas corpus* when suspected persons were arrested by their orders, authorized them to banish such persons beyond the military lines, and declared

[1] Randall's Life of Jefferson, i., 359.

[2] Letter to Monroe, May 20, 1782, in Randall's Life of Jefferson, i., 377.

that any one who resisted the calling of men into the field, should be considered *civiliter mortuus*, his property to go to his next heir, and he be liable to the pains and penalties of a *premunire*.[1] Mr. Henry was on the committee that reported this bill,[2] and also on the committee that brought in the bill for more effectively regulating and disciplining the militia.

He was chairman of the several committees that reported the bills for raising Virginia's quota of Continental troops; for the relief of the residents on the western waters; for establishing courts of claims; for making the money emitted at this session legal tender; for stopping the expedition lately ordered against Detroit; and for suppressing certain insurgents in the western and northwestern frontiers, and no doubt introduced the measures.[3] Among the resolutions he introduced was one requesting the Executive to present to Captain John Jouette, on behalf of the Assembly, "an elegant sword and pair of pistols."[4]

On June 22, the House adopted the following address to Congress, which had been prepared and presented by Mr. Henry under a previous order,[5] and which succinctly and strongly recalled the efforts of Virginia to maintain the war in the South, her present needs in her own defence, and the justice of her demand for help:

[1] Hening, Statutes at Large, x., 413.
[2] Journal for June 15, 1781, p. 19.
[3] Journal, 19, 22, 25, 26, 27.
[4] Captain Jouette was afterward a prominent citizen of Kentucky.
[5] Journal, 23.

To the Hon'ble the Congress of the United States of America.

"The General Assembly of Virginia deem it their indispensable duty to represent the distressed situation of their country, and to call for such aids as the present exigency demands. The war hath for a long time past raged with the most active violence in the southern states, where the greater part of the Virginia regular line were lost. In order to check the victorious career of the enemy and prevent the total loss of the two Carolinas and Georgia, the militia of this state was sent into long, expensive, and painful service in great numbers from time to time, at seasons the most inclement and distressing to them, under every discouragement, arising from a general want of necessaries, a sickly climate, and a series of defeats and disasters. The finances of the southern states have long since gone to ruin, and upon those of Virginia the southern defence has long continued to press with accumulated and ruinous violence. Within twelve months last past twenty millions of dollars have been emitted in state money from our Treasury, and there is a sum now due from this state for recent expenses of the war in this quarter to a most enormous amount, and added to the late emissions amounts to a sum beyond our abilities to discharge. We have also spared a great number of public arms to our southern neighbours, which have never been returned. During the course of these exertions to serve our sister states, our own hath not been unassailed by the enemy; for frequent invasions by sea as well as Hostilities on our Western Frontier have kept our people in a constant state of alarm, and have called for such frequent returns of military duty as were distressing in the highest degree to a people whose

commerce is destroyed while they are loaded with Taxes. In this state of multiplied difficulties and exhausted resources, the enemy, collecting a formidable force from various quarters and quitting the former seat of war, concentre all their efforts against Virginia. They carry Fire, Sword, and Ravage through the bowels of our country. We cannot resist them effectually, superior as they are by land and water, and our country rendered accessible to them by so many large rivers They have found us unprepared and exhausted. Active zeal for the American cause has rendered us so. We therefore request Congress to give us instant and effectual aid. We want men, money, arms, and military stores. We call for these in the utmost amount that the ability of Congress can possibly furnish. The sufferings of a Virtuous people, who now feel everything that a cruel, vindictive, and enraged enemy can inflict, compel us to make the demand, and justice ensures a compliance with it on the part of Congress. But should the affairs of the continent or its resources be so circumstanced as that a sufficient force by land and sea cannot now be afforded us, *we think it high time to call upon our European Allies and Friends for their most strenuous exertions*, and we request that Congress will be pleased to solicit from *them* those aids which are so essential to our preservation, and which it is their true interest to afford."

On the next day the body adjourned to meet in the fall at Richmond, or at such other place as the Governor might appoint.

Nothing puts in a stronger light the justice of Virginia's claim for aid from the North than the statement of her forces in the field during the spring and summer of 1781. At the battle of Guilford,

fought March 15, Greene's force was 3,650 men, of which there were four regiments of Continental troops. Of these two were from Virginia. In addition she furnished Lee's legion, and more than half of the militia. Of the army with Greene there were thus 2,481 Virginians.[1] Counting the men under arms for the protection of the western frontier, and those with Lafayette, she had at least five thousand men under arms in addition to the forces sent Greene, and it is safe to say she kept from six to seven thousand men in the southern field during the campaign. This was as many as were on the rolls of the army with Washington, who really had but a little over four thousand effective men.[2] Of these a considerable part were Virginians, as is shown by the return of the troops he brought to Yorktown.

Forty-three years afterward, when Mr. Henry had been in his grave twenty-five years, a serious charge was brought against him relating to his conduct during one of the sessions of this Legislature. It was made by Colonel John Taylor, of Caroline County, in a conversation with John Quincy Adams, who has preserved it in the following entry in his diary:

21. (March, 1824) I called at the beginning of the evening upon Colonel John Taylor, the Senator from Virginia, and R. P. Garnett, the member of the House, who has just returned from a visit home. Taylor continues low in health and feeble. He repeated to me the anecdote concerning Patrick Henry which he had related some weeks since at my house; that in the campaign of 1781, Henry

[1] Bancroft, x., 479. [2] Irving's Washington, iv., 272.

actually proposed in a secret session of the Legislature of Virginia that she should be the first to submit to Great Britain, in order that she might obtain the most favorable terms. Taylor was himself a member of the Legislature and heard him move to go into secret session, then make the proposition, and support it by an eloquent speech. It met with such immediate, indignant, and universal opposition that when the debate closed he had changed his side, and was among the most ardent and sanguine for perseverance in the war. Taylor thinks there is great exaggeration in the panegyric upon Henry by Mr. Wirt, and says that Henry had much less efficient agency in the Revolution than many others." [1]

Of this remarkable statement, or of a repetition of it, Mr. Madison, who had been intimate with some of the members of the sessions of 1781, wrote in February, 1827:

"It is difficult to resist the positive testimony of Colonel Taylor as to the intention of Mr. Henry to give up the contest with Great Britain. But is it not more difficult to resist the extreme improbability of the fact?" [2]

Colonel John Taylor was a countyman, first cousin, and protégé of Edmund Pendleton, and thus entered public life with all of Pendleton's prejudices against Mr. Henry. This animus is plainly shown in his depreciation of Mr. Henry's services in the Revolution, which was but a reiteration of what he had written John Adams on the appearance of Mr.

[1] Life of J. Q. Adams, vi., 263.
[2] Madison's Works, iii., 564. Letter to Henry Lee.

Wirt's book.[1] His feeling of hostility, thus early imbibed, had been intensified in 1799, when Mr. Henry openly opposed the resolutions he had introduced in the Virginia Legislature in 1798, claiming for the State the right to pass on the validity of a federal law. The division in Virginia on these famous resolutions excited extraordinary party heat, and Colonel Taylor was one of the most extreme of party men, inclined even then to disunion.[2] His estimate of Mr. Henry therefore was of little value in his mature manhood, and of much less when, with faculties impaired, he was tottering to his grave.[3]

The Journals of both sessions of 1781, together with the bills and resolutions introduced, are preserved in the State archives. A careful examination of these shows no trace of such a motion, while they show Mr. Henry to have been foremost in devising measures for a vigorous prosecution of the war. Had he once shown a disposition to surrender the State, it is incredible that the body would have trusted him in the important and delicate matters committed to him. Among these there need only be recalled the addresses to Congress, one of which was adopted the day before the body adjourned at Staunton. But not only is the charge not sustained by the Journals and papers of the Legislature, but it is on its face incredible. Mr. Henry had been a great leader in the Legislature for years, and had always been in accord with the popular feeling. It is not to be believed that he

[1] Life and Works of John Adams, iii., 58.

[2] Randall's Jefferson, ii., 447.

[3] Colonel Taylor died in August, 1824, five months after this conversation, seventy-four years of age. Appleton's Cyclopædia of American Biography.

would have made such a motion without having first felt the pulse of the body, and had he done so, he would have abandoned the idea at once; for we are told that it met with "immediate, indignant, and universal opposition."

Again, such a motion certainly indicated despondency in the mover, yet we are told that, "when the debate closed, he had changed his side, and was among the most ardent and sanguine for perseverance in the war." Nothing could have been more remarkable than such a change. A support of the war, after such an exhibition of his convictions, might have been possible. But the *most ardent* and *sanguine* support was not possible, if the motion was made in earnest. That Mr. Henry was among the most ardent and sanguine for perseverance in the war is beyond doubt, and this fact sufficiently disproves the statement of Colonel Taylor.

It is passing strange that this charge was not made during Mr. Henry's life, if there was any ground for it. There were two periods when such a charge, if established, would have greatly helped his political opponents, and, if true, would very certainly have been made. One was during, and immediately subsequent to, the convention of 1788, when, in order to break down Mr. Henry's influence, resort was had to personal attacks. One of these was made on the floor of the convention by Edmund Randolph, a brother-in-law of George Nicholas, a leading member of the Legislature of 1781. After the adjournment of the convention a series of articles appeared over the signature of "Decius," attacking Mr. Henry's private as well as public character. They were believed to have been

written by one of the Nicholas family, assisted by several of Mr. Henry's opponents. But although these assailants brought many charges, they nowhere mention any flinching on his part during the Revolution. Another period was the excited times of 1799, when so many bitter things were said about Mr. Henry. Many of his opponents had been members of the Legislature of 1781, but there was no hint of his having proposed to surrender Virginia to the British.

If Colonel Taylor had any ground for his statement, it must have been that Mr. Henry, in urging some extreme war measure, argued that the surrender of the State would probably be the alternative. Some such incident may have become perverted in a prejudiced and failing mind into the statement made to Mr. Adams.

Governor Nelson proved to be the man for the occasion. He wielded the immense power given him with a patriotism and wisdom above all praise. The people were impressed with the belief that by a supreme effort they would be able to drive the British from the State, or capture Cornwallis's army, in which last event the war would be brought to a close. Notwithstanding the calls which had been made before, the great destruction of property in some portions of the State, and the impressments in others, there was a generous response to the demands of the hour, and not only did the Governor appear in person at the head of a large body of militia to aid in the investment of Cornwallis, but provisions were forthcoming sufficient to sustain the combined American and French armies which closed in upon him. It is related of the noble Governor that, in

order to get the money he needed for the men under him, he pledged his own large private fortune, and impoverished himself.

While Virginia was suffering under the tread of the invader, Washington was passing through severe trials at the North. Of the 37,000 men voted him by Congress, he had only about 4,000 fit for duty.[1] To hold his small army together, he had seen that a specie loan was necessary. At his earnest solicitation Congress sent Lieutenant-Colonel John Laurens, December 28, a special commissioner to the French court. Washington gave him a letter of instructions, by which he was directed to solicit a substantial loan, and a naval and land force sufficient to maintain a superiority over the British in America.[2] Scarcely had Laurens been commissioned when painful evidence was given of the impending danger.

On January 1, 1781, a serious mutiny broke out in the Pennsylvania troops, who were not only "poorly clothed, badly fed, and worse paid," but were being detained, by a strained construction of the terms of enlistment, beyond their time of service. It was by the greatest firmness and tact that their commander, General Wayne, and Colonel Reed, the Governor of the State, finally quelled the mutiny, and stopped the march of the men to the doors of Congress. This dangerous move was followed by a similar one in the Jersey line, on January 20. This last Washington put down by a detachment from the Massachusetts line, which surprised the mutineers, a small body, and shot two of the ringleaders.[3]

[1] Irving's Washington, iv., 272. [2] Idem, 193.
[3] Idem, 194–204.

Congress at last became aware that a change must be made in its finances to avoid utter ruin. Robert Morris, a man competent to the task of restoring its credit, was made Superintendent of Finance, February 20, 1781. Under his direction a return to specie payments was determined on. The debt due in paper money was ordered to be reduced to a specie value and funded as an interest-bearing loan. The quotas of money asked for from the States were fixed in specie, and it was recommended that all tender laws be repealed. A bank was also chartered to aid the government, upon a plan prepared by Gouverneur Morris, the Assistant Superintendent of Finance. These measures, with the loan of six millions of livres from France, effected by Colonel Laurens, had the desired effect. Paper money soon went out of use, and prices were adjusted upon a specie basis.

But Colonel Laurens was not only successful in obtaining money from the court of France; he persuaded the King to become security for a substantial loan from Holland, and to send an additional fleet and land force to the aid of the United States.

Before their arrival Washington planned an attack upon New York by the combined American and French forces, the French marching from Newport for the purpose. The plan failed, but was followed up by a demonstration in force, which alarmed Clinton, and caused him to order the return of some of his forces in Virginia.

Early in August Washington was informed by Lafayette of the movement of the British from Portsmouth; and also by despatches from the

Count de Grasse, commanding the additional French fleet, that he was at St. Domingo, and would sail on the 3d with twenty-five or thirty ships of the line for Chesapeake Bay, having on board a considerable land force. These re-enforcements were sufficient to make the Americans superior to the foe in Virginia, both on land and water. Washington now changed his plans. He wrote to Lafayette to cut off any attempted retreat through North Carolina. Deceiving Clinton as to his movements, and leaving Heath in command of the posts along the Hudson, he withdrew from before New York with two thousand American troops and all of the French force under him, and on August 19, commenced a rapid march to Virginia. Reaching Philadelphia, the combined armies were joyfully reviewed by Congress and the citizens, and the excitement aroused by their presence was raised to the highest pitch by intelligence of the entrance into Chesapeake Bay of the Count de Grasse, and the landing of three thousand troops under the Marquis St. Simon. Washington, hastening on, reached Williamsburg on September 14, and was greeted by the combined American and French forces under Lafayette. Here he learned that the Count de Grasse, who had put to sea in order to engage the English fleet under Admiral Graves, had won a victory, and had thus enabled De Barras to enter the Bay with the French fleet which had been blockaded at Newport. De Barras brought with him siege artillery and military stores.

Cornwallis, aroused to his danger upon the appearance of De Grasse in the Bay, had attempted to

escape in the direction of North Carolina, but it was too late. Both York and James Rivers were filled with French ships, and the force under Lafayette at Williamsburg was too strong to be attacked. He proceeded, therefore, with great energy to strengthen his fortifications at Yorktown and Gloucester Point, just across the river.

Washington, in command of the combined armies numbering about twelve thousand men, besides three thousand two hundred Virginia militia under Governor Nelson, marched from Williamsburg September 28, reached the vicinity of Yorktown, twelve miles distant, in the afternoon, and commenced the siege. The French fleet took up its position in Lynn Haven Bay, and effectually cut off assistance by sea. On October 2, a foraging party under Tarleton, which had moved out of Gloucester Point, were driven in by a French force under Lauzun and Choisy, and the next day that point was fully invested. This was the last engagement of Tarleton and his celebrated legion.

On the 9th the first parallel was completed on the Yorktown side, and the American batteries were placed in position. Washington put the match to the first gun, and a brisk and well-directed cannonade commenced. The headquarters of Cornwallis were in the mansion of the venerable Secretary Nelson, the uncle of the Governor. This was soon so riddled that the Earl was forced to leave it. The Governor had also his home in the town, and he expected that Cornwallis would occupy that. So believing, he directed fire to be opened upon it.

On the 14th two redoubts of the enemy were stormed, one by a party of Americans from the de-

tachment of Lafayette, led by Colonel Alexander Hamilton, and the other by a party of French from the detachment of Baron de Viomenil, led by the Count de Deuxponts. A second parallel was now established. Reduced to despair, Cornwallis next attempted to escape by conveying his army across to Gloucester Point in the night, and forcing the French lines thrown around that place. A storm prevented his crossing the second division of his army, and forced him to recall the troops already over. His hopes of assistance from Clinton, or of further resistance, were now at an end. All his guns had been silenced. On the 17th he sent a flag of truce, which resulted in a formal capitulation on the 19th of his entire force, amounting to 7,073 men, rank and file.

The besieging army was estimated at 16,000, of whom 7,000 were French, 5,500 Continentals, and 3,500 Virginia militia. The conscience-stricken Tarleton is said to have stipulated that he should not be delivered to the Virginia militia, so many of whose homes he had desolated.

The cry of "Cornwallis is taken," ran through the country like wild fire, kindling transports of joy. Bonfires, processions, barbecues, public addresses, and sermons were the order of the day. Congress voted thanks to all engaged, appointed a day of thanksgiving, and resolved to erect a monument at Yorktown in memory of the great event.[1] The King of France ordered a *Te Deum* to be sung in the Metropolitan Church in Paris, and the city was illuminated in honor of the occasion.

[1] The promise was fulfilled a century afterward by the erection of a splendid monument at the place.

The great event had been accomplished by a grasp of mind in the conception of the campaign, and an accuracy in the execution of its details, which showed the highest order of military genius in Washington, and drew even from his enemies the tribute which true genius commands.

All recognized it as the end of the war, except the King, who still dreamed of conquest. When Lord North heard the news, he threw up his arms as if shot, exclaiming over and over again, as he wildly paced his room, "Oh God! it is all over!" Fox is said to have expressed joy that the effort to conquer was at an end. Washington took his troops from the Eastern States back to their quarters near New York. De Grasse sailed for the West Indies. Rochambeau took the French troops into the interior of Virginia for winter quarters, encamping some of them at Charlotte Court-House; while Wayne with the Pennsylvania line marched to the aid of Greene in recovering Georgia. Except the partial engagements in that State, the fighting on land was over, and the armies rested till the effect on Parliament of the great disaster could be seen.

On February 28, 1782, after several test-questions had been put showing a steadily decreasing majority for the ministry, General Conway's motion to put an end to the war was carried in the House of Commons, and England ceased her effort "to shear the American wolf." A month afterward Lord North resigned, and was succeeded by the peace administration of Lord Rockingham, which was forced upon the still stubborn King by popular clamor.

Thus the great event which virtually closed the

Revolution occurred in Virginia, and within hearing of the old capitol, in which sixteen years before Patrick Henry had given it its first decided impulse by his resolutions against the Stamp Act. How efficient he had been as a leader in every stage of its progress has been in some manner set forth in the preceding pages; but it is impossible to estimate in full the services rendered by him in the establishment of the independence of his country. Years afterward, Mr. Jefferson, who had no disposition to over-rate him, said to Daniel Webster:

"He was as well suited to the times as any man ever was, and it is not now easy to say what we should have done without Patrick Henry. He was far before us all in maintaining the spirit of the Revolution. His influence was most extensive with the members from the upper counties, and his boldness and their votes overawed and controlled the more cool or the more timid aristocratic gentlemen of the lower part of the State. After all, it must be allowed that he was our leader in the measures of the Revolution in Virginia, and in that respect more is due to him than to any other person. If we had not had him, we should probably have got on pretty well, as you did, by a number of men of nearly equal talents; but he left all of us far behind."[1]

And conversing with Mr. N. P. Trist by his own fireside, he said:

"It was to him that we were indebted for the unanimity that prevailed among us. He would address the assemblages of people at which he was present, in such strains of native eloquence as Homer wrote in."[2]

[1] Curtis's Life of Webster. [2] Randall's Life of Jefferson, i., 40.

Judge Spencer Roane, of the Virginia Court of Appeals, who had ample opportunities of knowing Mr. Henry's services, wrote of him in his letter to Mr. Wirt: "He emphatically led the people in promoting and effecting the Revolution." "He had an astonishing portion of political courage. Perhaps it is not too much to affirm that it is owing to this one quality of this single man that our Revolution took place at the time it did."

These are but utterances of the general voice of Mr. Henry's contemporaries. To his imperishable honor, therefore, it may be said that he led Virginia, the leader of the colonies, in the important measures of the American Revolution. During the prolonged and arduous contest, he and his co-patriots were animated by the conviction that upon its issue depended not only American rights, but the liberties of mankind. This belief was shared by the lovers of liberty in the Old World, and excited their intense interest in, and active sympathies for, the American cause. Nor was the result disappointing. The check given to British tyranny, and the success of republicanism in the United States, have advanced free institutions throughout Europe and America, and justified the declaration of Fox on the floor of Parliament, that, "The resistance of the Americans to the oppressions of the mother country has undoubtedly preserved the liberties of mankind." In 1887, it could be truthfully said by a writer on American institutions that, at the close of the Revolution, "there was in the old world only one free nation and no democracy. In Europe there now remain but two strong monarchies, those of Russia and Prussia, while America, scarcely except-

ing Brazil and Canada, is entirely (at least in name) republican." [1] Within the year 1890 Brazil has dethroned her king and adopted a republican form of government.

This liberalizing of civil government on each side of the Atlantic is the outcome of the great principle for which the American revolution was fought, that there should be no legislation for the people, except through their chosen representatives; or stated more broadly, that the sovereignty of the people is the true basis of government. It was clearly foreseen by Chatham, Fox, Walpole, and Burke, the greatest British statesmen of the age, that the failure of the American cause would result in the establishment of absolutism in England,[2] and if this had come to pass in England, there would have been no advance of liberal ideas on the Continent. The beneficent influence of the American Revolution, therefore, on the governments of the world is a thing as yet incalculable.

[1] Predictions of Hamilton and De Tocqueville, by James Bryce, M.P., 10. [2] Lecky's XVIII. Century, iii., 589-90.

CHAPTER XXX.

LEGISLATION AFTER THE WAR.—NEGOTIATIONS FOR PEACE.—1781-83.

Legislature of November, 1781.—Important Bills Introduced by Mr. Henry.—Parliament Determines to End the War.—Letter of General Gates to Mr. Henry.—Legislature of May, 1782.—Movement for Separation of Kentucky and Washington County from Virginia.—Virginia Withdraws Her Consent to the Abandonment of the Free Navigation of the Mississippi.—Movement of Maryland for Closer Relations with Virginia.—Friendly Response of Virginia.—Negotiations at Paris for Peace.—Importance of Boundary Question.—The Northwest Secured by Clark's Conquest.—Terms of Treaty.—Mr. Henry's Policy after Peace.—Controls the Legislation of the State.—Accounts of Some of His Speeches.

THE Virginia Legislature, which should have met October 1, 1781, had no quorum in the House till November 19. Mr. Henry did not take his seat till the 27th of that month, and he obtained leave of absence on December 21. During this short time he served on a number of committees, some of which considered matters of great importance in the new condition of affairs. Among the bills introduced by him the following deserve special mention:

A tax bill, carefully prepared, and admirably adjusted to the condition of the State, which was in great need of a sound circulating medium. Paper money had ceased to circulate, and the little specie derived from the Spanish trade, and the French troops, was utterly inadequate to the wants of the people. The bill introduced by Mr. Henry

imposed a tax of one pound on every one hundred pounds value of land, two shillings on every horse and mule, three pence a head on cattle, five shillings per wheel on pleasure carriages, fifty pounds on every billiard-table, five pounds on every ordinary license, and ten shillings capitation on white males above twenty-one, and on all slaves. This might be paid one half in specie, tobacco, or hemp, and the other half in specie, tobacco, hemp, or flour, except the tax on land, and one-tenth of that might be paid in the Continental bills emitted under the act of March 18, 1780, which, when received, were to be destroyed by the State Treasurer.[1]

A bill for calling in and funding the paper money of the State. By this act the paper money issued by the State was to be no longer a legal tender, except for the taxes of 1781. All holders of it were required to bring it to the treasury on or before October 1, 1782, when it might be exchanged for specie certificates, carrying six per cent. interest, at the rate of one thousand for one,[2] the last value affixed to the paper currency.

A bill to adjust the pay of the Virginia officers and soldiers in Continental or State service, and of the sailors and marines in the State service. By this act all accounts were to be audited, and what was due in paper money scaled to specie as of due day, according to a scale fixed by the act for every month from January 1, 1777, to January 1, 1782; the tract of land between the Mississippi, Ohio, and Tennessee Rivers was substituted for the land lost to the State by the running of the Tennessee line, in

[1] Journal, 44; Hening, Statutes at Large, x., 501.
[2] Journal, 43; Hening, Statutes at Large, x., 456.

the location of military warrants; and the proceeds of confiscated estates were devoted to the payment of the arrears of military pay.[1]

A bill for adjusting all debts and contracts entered into between January 1, 1777, and January 1, 1782, payable in paper money.[2] This authorized the debtor to settle his obligation by paying the scaled value in specie of the paper money as of the date of the contract, by the scale given in the act; required partial payments already made to be first credited at their nominal amount; and gave a stay of execution on judgments until December 1, 1783, except on debts to the commonwealth, or for rents or hires. No wiser measures could have been devised for bringing order out of the prevailing confusion.

Mr. Jefferson relates in a letter to Mr. Wirt, that "at the close of the war many of us wished to reopen all accounts which had been paid in depreciated money, and have them settled by the scale of depreciation. But on this he (Mr. Henry) frowned most indignantly, and knowing the general indisposition of the Legislature, it was considered hopeless to attempt it with such an opponent at their head as Henry."[3]

It seems very apparent that of the two Mr. Henry's sense of justice was the more correct. The Legislature could not properly release men from their contracts. All it should have attempted was to establish a just specie scale for the settlement of outstanding obligations payable in an exploded

[1] Journal, 29; Hening, Statutes at Large, x., 462.
[2] Journal, 46; Hening, Statutes at Large, x., 471.
[3] Historical Magazine for 1867, 91.

paper currency. To have set aside, or scaled, payments accepted in paper money, would have been to avoid the agreements of the creditors to receive the payments at their nominal value, and make other and different contracts for the parties. This can never be right. That Mr. Henry's bill was just and proper was not only the testimony of the Legislature of 1781, but of the Legislature of 1865, which enacted a similar law upon the close of the war between the States and the collapse of the Confederate paper currency. The principle has been also approved by similar legislation in other States at each period.

Glowing resolutions were adopted, thanking Washington, Rochambeau, De Grasse, Lafayette, and the French troops for their services to Virginia, and especially for the last victory at Yorktown; and a marble bust of Lafayette was ordered to be made and presented to him, "as a lasting monument of his merit and of the gratitude of Virginia."

Benjamin Harrison was elected Governor, General Nelson having been forced to resign by broken health.

The belief that the capture of Cornwallis would put an end to the war, did not prevent the Legislature from keeping the State in readiness for its continuance. An act was passed for filling up Virginia's quota of Continental troops by recruits for two years or the war.[1] And another for raising by a tax in kind her quota of the provisions needed to supply the army.[2]

Exhausted as Virginia was, she was still the re-

[1] Hening, Statutes at Large, x., 499. [2] Idem, x., 490.

liance of General Greene to keep his army in the field, and she was still required to furnish her quota of the money needed for the Continental treasury.[1]

The determination of the House of Commons, on February 28, 1782, to put an end to the war, was hailed in America as the assurance of peace and independence, and filled the land with joy. Some indication of the feeling is seen in the following letter of General Gates to Mr. Henry:

"10th May 1782.

"Dear Sir: Peace & Independence are Blessings so inestimable, that I cannot forbear Congratulating you thereupon. Now sir, may you exult with Cicero, 'Cedant Arma Togæ,' & so I hope will all Columbia's Sons. Seven years is long enough for the Sons of Mars to Ravage. Equal Law, Equal Liberty, & General Republicanism, will, I anxiously hope, prevail throughout the Land. True to Our Allies, they cannot fail to be true to us. I will not indulge a Thought that they will ever imitate the bad Policy of George the 3d and his advisers—Mr R. H. Lee, Mr. Jefferson & the Late Governor, have also my Congratulations upon this Great Event: The Gratitude I owe to you, & to them induces me to be thus particular—Now the Glorious Opportunity approaches, when upon the Broad Basis of Civil Liberty, may be established, the Happiness of the present Generation, & their posterity. As I am satisfied no four men in the U. S. have it more in their Inclination, so do I wish none may have it more in their power to serve their Country than yourselves—The want of Hard Money, which alone is Current, has Nailed

[1] MS. Letters of Greene and Robert Morris to the Governor in legislative papers.

me to my Farm, ever since my Return to it; The paper fell to Nothing while I was in Philadelphia last May, so I was obliged to borrow to pay my necessary expences there, & but for a good Friend, I must like Belisarius have begged my way Home —but I will not Fret at the Storms upon the Passage, since we are at last Anchor'd in the Harbour of Independence. With sentiments of the Greatest Esteem & Regard, I am Dear Sir

"Your affectionate

"Humble Servant

"HORATIO GATES.

"To the Hon. PATRICK HENRY."

In the midst of this universal rejoicing, the Legislature met, May 6, 1782. Mr. Henry was in his seat, but the loss of the Journal from the State archives, prevents the tracing of his connection with much of the business of the session. Very few acts of importance were passed, as the body could not safely legislate either for a state of war or peace; for while the war was evidently ended, no peace negotiations were yet concluded. Among the acts of the session the most notable was that authorizing the manumission of slaves,[1] a fitting memorial of the achievement of liberty by their masters. There can be no doubt that Mr. Henry supported this bill, if indeed he did not introduce it.

From memorials presented to the Legislature, they were informed of a movement among some of the inhabitants of Kentucky, and Washington County, to erect a separate government for themselves, growing out of their dissatisfaction with the action of Congress regarding the western territories and

[1] Hening, Statutes at Large, ii., 39.

the Mississippi. The movement in Washington County was led by Colonel Arthur Campbell, who was also suspected of influencing the Kentuckians.[1] These last applied to Congress to authorize their proceedings.

This produced a report from the Committee of Propositions and Grievances, of which Mr. Henry was doubtless a member as during other sessions, declaring the willingness of Virginia to set off the country on the western waters of the Ohio into a separate State, so soon as the circumstances of that country should render it proper. But also declaring that the movement must be conducted in the constitutional method, by application to the General Assembly, and that any attempt to divide the State otherwise was a high crime, which should be duly punished.[2]

Kentucky had been divided into the three counties of Lincoln, Fayette, and Jefferson, and a district court had been organized, which did much toward establishing order in the settlements. The population had greatly increased, and during the year the last great Indian battle was fought at Blue Licks. It was most disastrous to the Kentuckians, but was followed by a retaliatory expedition under General George Rogers Clark, which put an end to the formidable Indian invasions from which they had so much suffered.

The scarcity of specie made it a very serious matter to raise even the proportion which was required by the tax bill of the preceding session. Under the lead of Mr. Henry,[3] the tax was divided and

[1] MS. Papers among the Legislative Records. See also Bland Papers, 283, as to movement.

[2] MS. Report among Legislative Papers. [3] Bland Papers, ii., 83.

one-half made payable by July 1, and the other half by November 1.[1]

The Legislature at this session, doubtless under his lead, withdrew their consent to the abandonment of the claim to the free navigation of the Mississippi, and also instructed their delegates in Congress upon the question of the fisheries, and the admission of Vermont.[2]

A committee was appointed, consisting of George Mason, Thomas Jefferson, Arthur Lee, Edmund Randolph, and Thomas Walker, to collect all documents and proofs necessary for establishing the right of the State to its western territory, as claimed in the constitution of 1776. Edmund Randolph prepared the report, which was not submitted to the Legislature till the May session of 1784.[3]

If there was any ground for the statement, sometimes made, that the State of Maryland was unfriendly to Virginia during the Revolution, the determination of Virginia to cede her western lands to the United States, produced an entire change in the sentiments which prevailed in the councils of her northern neighbor. On May 23, 1782, her Legislature passed an act providing for a fleet of barges for the defence of Chesapeake Bay, inviting Virginia to unite her marine forces for the purpose, and appointing the Honorable Robert Hanson Harrison, chief judge of the General Court, a commissioner to visit Richmond and consult the Legislature and Executive of the State, "on the most effectual measures for protecting the trade of the Bay of Chesapeake and the property of the people inhabiting the

[1] Hening, Statutes at Large, ii., 66. [2] Bland Papers, ii., 83.
[3] No copy of this report has been found.

shores thereof, and that he be directed to assure the Legislature and Executive of Virginia, that we consider the interests of the two States as mutual and inseparable, and sincerely wish to preserve the strictest union, harmony, and communication of good offices and correspondence between the Legislature and people of our respective governments."

Judge Harrison presented this act with a proper communication on June 1. The Virginia Assembly replied on June 14, that it "is strongly impressed with the idea of the common benefit, safety and happiness that will result from the strictest union of the two States; to promote which in the most effectual manner shall be an object of constant attention on the part of Virginia." And it resolved, "that the Governor be desired to correspond with the State of Maryland upon the propriety and benefit to both States of harmonizing as much as possible in the duties, imports, or customs that are or may be laid on commerce."[1]

The correspondence thus commenced developed into the movement which culminated in the Federal Convention of 1787.

Mr. Henry did not attend the fall session of the Legislature, doubtless on account of poor health.

The year 1782 is memorable for the negotiations for peace conducted at Paris, by commissioners of England, America, France, and Spain. Seldom, if ever, have such negotiations been more complicated, or been conducted with more ability. They were mainly managed on behalf of England by Richard Oswald, who was assisted by Alleyne Fitzherbert and Henry Strachey; on behalf of the United States by

[1] MSS. among papers of the session.

Benjamin Franklin, John Jay, and John Adams, to whom Henry Laurens was added at the last moment; on behalf of France by Comte de Vergennes; and on behalf of Spain by Count D'Aranda. By the treaty between France and the United States the possessions of the latter were guaranteed to them, and the war was to be continued until England acknowledged their independence; but by the secret treaty afterward entered into by France and Spain the war with England was to be continued until Gibraltar, or some equivalent, had been acquired by Spain. Besides, this grasping power had been left at liberty to gain what she could of American territory, and had accordingly not only taken Baton Rouge, Natchez, and Mobile, upon which to base a claim to the lower Mississippi, but had also sent an expedition from St. Louis in 1781, which had seized the English fort St. Joseph, situated within the present State of Michigan, upon which she based a claim to the upper Mississippi. The American commissioners acted under the instructions of Congress of August 14, 1779, and October 4, 1780, enforced by the reasons given for these in the letter of October 17, 1780.[1] These instructions required them to insist on an acknowledgment of independence by Great Britain as a preliminary article; that the boundaries of the United States should be marked by a line drawn from the northwest angle of Nova Scotia, along the highlands, to the northwestern head of the Connecticut River, thence along the middle of that river to the forty-fifth degree of north latitude, thence due west to the northwesternmost side of the St. Lawrence, thence straight to

[1] See Secret Journal, ii., pp. 225, 323, and 326.

the south end of Lake Nepissing, thence straight to the source of the Mississippi, thence down the middle of that river to the thirty-first degree of north latitude, thence east to the middle of the Appalachicola, thence along its middle to the Flint, thence to the head of the St. Mary's River, and down the same to the Atlantic Ocean; the eastern boundary being that ocean and a line along the middle of the St. John's River from its source to its mouth in the Bay of Fundy, embracing all islands within twenty leagues of the coast; and that the United States should have the common right to the fisheries on the coasts of Newfoundland, and the right to the free navigation of the Mississippi. This boundary on the north was substantially that of Canada before the Quebec bill in 1774. By the influence of the French Minister, Luzerne, Congress, on June 15, 1781, directed its commissioners not to consider the instructions as to boundaries and fisheries imperative, and added a requirement that they should "make the most candid and confidential communications upon all subjects to the ministers of our generous ally, the King of France, undertake nothing in the negotiations for peace or truce without their knowledge and concurrence; and ultimately govern yourselves by their advice and opinion."[1] Taking advantage of the feeling of gratitude felt in the United States for the aid extended by France, the court of our ally had thus obtained instructions which would enable her to force our commissioners to accede to the terms she had determined to impose in the interest of Spain, to whom she was bound by her secret treaty.

[1] Secret Journal, ii., 446.

Negotiations were commenced with Franklin, who was joined afterward by Jay, whose residence at Madrid, in the vain effort to effect a treaty with Spain, had taught him something of the character of her court; later Adams came from his successful efforts to effect a treaty with the Dutch Republic; and last came Henry Laurens, from an English prison. England was the more inclined to treat for peace, because the signal victory of Rodney over De Grasse in the West Indies, on April 12, enabled her to do so with less humiliation, and the final repulse of the French and Spanish attack upon Gibraltar, in September, made the French the more anxious to end the war, already become very burdensome, and at no time glorious. But France was embarrassed by her treaty obligations to Spain. Failing to get Gibraltar, she yielded to her demand for an equivalent in America, and by restricting the western border of the United States, and depriving them of the fisheries, they both hoped to dwarf a republican power which they feared would become dangerous to monarchy, and which they proposed, with the aid of England, to confine to the east of the Alleghanies. In the first interview with D'Aranda after Jay's arrival at Paris, the Spaniard opened the design to acquire for his government the Mississippi Valley, and to deprive the United States of the fisheries. In a subsequent interview with Reyneval, the Secretary of Vergennes, Jay found that France was backing Spain in her unwarrantable demands. On the next day Reyneval left Paris on a secret mission to Lord Shelburne, who had become Prime Minister of England upon the death of Rockingham. Jay rightly suspected that he went to en-

gage the British ministry in the partition of the Mississippi Valley. He at once despatched Benjamin Vaughan as a special messenger to Shelburne, offering to treat separately with the British, and suggesting that the true interest of England was not to cramp the United States for the aggrandizement of France and Spain. Although England was offered the territory north of the Ohio, as the price of aiding Spain to acquire that south of that river and west of the Alleghanies, Lord Shelburne preferred separating the United States commissioners from the French ministry in the negotiations. Amusing Reyneval with a polite answer, he directed his commissioners to conclude a separate treaty with the Americans, who upon the discovery of the treachery of the French court had determined to disobey their instructions, and ignore the French in their negotiations. But during the negotiations which followed the British claimed the lands between the Mississippi and the Alleghanies, hoping to gain at least enough territory to make compensation for the losses of the Tory refugees.

The American Commissioners were able to meet and refute the Spanish and British claims to this coveted territory, by repeating the conclusive arguments in favor of the rights of the United States, stated in the letter of Congress of October 17, 1780; namely, their charter limits, the actual occupation of the territory by many American settlers, and of that north of the Ohio by Virginia, with a military and civil government since the conquest of Clark.[1] The principle of *uti possidetis* prevailed.

[1] Virginia not only rewarded Clark with land, but she gave him a pension in 1812. See Calendar of State Papers for that year.

Other and most important questions arose in the discussions, but by the firmness and intelligence of the American Commissioners they were happily solved, and on November 30, 1782, the provisional articles of peace were signed which became definitive in 1783, and which secured to the United States their independence, with a boundary along the St. Croix on the east, the lakes on the north, the Mississippi on the west, and the Floridas on the south, with the right of fisheries in the waters of Newfoundland. It was also provided that creditors on either side should have the right to collect their debts, that Congress should recommend to the States to restore the estates forfeited by the Tories, and that the slaves and other property captured by the British should be restored to the owners. Now that the secret correspondence of the French and Spanish ministers has come to light, disclosing the dangers that surrounded the United States in this negotiation, and that the great advantages secured in territorial and fishery rights have resulted in the development of the infant republic into a first-class power, we can have some just appreciation of the great work accomplished by our negotiators, and of the importance of the Northwest expedition sent out by Governor Henry in 1778, which by securing the possession of the Northwest, enabled the American Commissioners to defend our title to it against all claimants. Says the historian Fiske:

"On the part of the Americans, the treaty of 1783 was one of the most brilliant triumphs in the whole history of modern diplomacy. Had the affair been managed by men of ordinary ability,

the greatest results of the Revolutionary War would probably have been lost; the new republic would have been cooped up between the Atlantic and the Alleghanies; our westward expansions would have been impossible without further warfare; and the formation of our Federal Union would doubtless have been effectively hindered or prevented."

The baffled D'Aranda wrote to his king when he read the treaty: "This Federal Republic is born a pigmy. A day will come when it will be a giant: even a colossus, formidable to these countries. Liberty of conscience, the facility for establishing a new population on immense lands, as well as the advantage of the new government, will draw thither farmers and artisans from all nations." [1]

The boundaries agreed on suggested extensions, and by the acquisition of Louisiana in 1803, of Florida in 1819, of Texas in 1845, of Oregon in 1846, of California in 1848, and of Alaska in 1867, millions of acres have been added to the original area fixed by the treaty.

The signing of the provisional articles of peace was the commencement of a new era in the legislation of the country. Relieved of the responsibilities of war, the legislative bodies were called upon to meet the grave questions which peace brought to the impoverished country. In the solution of these questions Mr. Henry displayed the same indepen-

[1] The history of this treaty has been told by Bancroft in vol. x. of his History of the United States, and in vol. vii. of The Narrative and Critical History of America, where full reference is made to all the authorities.

dence and breadth of mind which had characterized his previous course, and which fitted him so well for leadership. In the four sessions that followed, during which he served, he was brought in contact not only with some of the ablest of his former associates, such as R. H. Lee, Judge Tyler, and James Madison, but with a number of young men, who having distinguished themselves in the army, were now just entering the councils of the State, and whose talents were of the first order. Among these were Archibald Stuart, Henry Tazewell, Spencer Roane, and John Marshall, all afterward distinguished judges; William Grayson, the future United States Senator, and John Breckenridge, the able Attorney-General of the United States under Mr. Jefferson.

But whatever might be the individual or combined talents of his colleagues, Mr. Henry was easily the leader, and was looked to by the people as the man of all others who could successfully grapple with the grave questions which were now to determine the future of the State. This is strikingly shown in the following able and patriotic letter of George Mason to Mr. Henry, between whom the closest friendship existed, and who almost invariably agreed in their political views.

"FAIRFAX COUNTY, GUNSTEN HALL,
"May 6th 1783.

"DEAR SIR: Altho' it is a long time since I had the honor of hearing from you, I reflect, and ever shall reflect, with pleasure on our former acquaintance, and the proofs I have experienced of your esteem and friendship. I have enjoyed but indifferent health since I retired from public business:

should I recover a better state of health, and have just cause to think I can render any essential public service, I shall return again to the Assembly.

"I congratulate you, most sincerely, on the accomplishment of what I know was the warmest wish of your heart, the establishment of American independence, and the liberty of our country. We are now to rank among the nations of the World; but whether our Independence shall prove a blessing or a curse, must depend upon our own wisdom or folly, virtue or wickedness; Judging of the future from the past the prospect is not promising. Justice and virtue are the vital principles of Republican Government; but among us a depravity of manners and morals prevails, to the destruction of all confidence between man and man. It greatly behoves the Assembly to revise several of our laws, and to abolish all such as are contrary to the fundamental principles of justice; and by a strict adherence to the distinctions between Right and Wrong for the future, to restore that confidence and reverence in the people for the Legislature, which has been so greatly impaired by a contrary conduct; and without which our laws can never be much more than a dead letter. It is in your power, my dear sir, to do more good and prevent more mischief than any man in this state, and I doubt not that you will exert the great talents with which God has blessed you, in promoting the public happiness & prosperity.

"We are told that the present Assembly intend to dissolve themselves, in order to make way for a General Convention, to new model the constitution of government. Will such a measure be proper without a requisition from a majority of the people? If it can be done without such requisition, the caprice of future Assemblys may repeat it, from time to time, until the stability of the constitution is totally destroyed, and anarchy introduced in its

stead. Or at any rate will it not be better to defer it a year or two, until the present Ferment (occasioned by the late sudden change) has subsided, and men's minds have had time to cool?

"The people in this part of the country are made very uneasy by the reports we have from below, that the Assembly will make some laws or resolutions, respecting British Debts, which may infringe the articles of the peace, under the mistaken idea, that Great Britain will not risque a renewal of the war on account of such an infraction of the treaty. We see by the late public papers, that the terms of the peace with America are so strongly censured in both Houses of parliament, that it has occasioned, or will occasion, a total change in the ministry. A new ministry averse to the treaty, or even the ministry who concluded it, might resent and revenge an infringement of it in any particular state, by reprisals upon the ships or coasts of such state, or by sending two or three Frigates to intercept their trade, without danger of involving themselves in a new war; for the power of war and peace, and of making treaties, being in Congress, and not in the separate states, any such act would be considered as an unwarrantable assumption of power in the state adopting it; and we have no reason to expect that either the late belligerent powers in Europe, or even the American states in general, would make a common cause of it. It is easy to foresee that in such an event our situation would neither be safe, or honorable.

"Had it been in the power of the American commissioners (which it certainly was not) to have abolished the British debts here, it would have been but short sighted policy to have done so. The far fetch'd arguments which have been used to show the distinction between this and other wars, would not have been approved, or comprehended by the bulk

of Mankind; and with what degree of confidence cou'd foreign merchants have ventured their effects here, if upon any national Quarrel, they were liable to confiscation? I could have wished indeed that some reasonable time had been allowed for the payment of British debts, and that the interest on them had been relinquished. As to the first, the desire of the British merchants to reinstate themselves in their trade here will probably prevent their pressing their debtors; and as to the last, their bond Debts only will carry interest. It is notorious that the custom of giving interest upon common accounts was introduced by the partiality of the merchants, of whom the jurys at the general court were chiefly composed for several years before the late revolution. Under our present circumstances, I think the accounts of British creditors may be safely trusted to the Virginia jurys, without any interposition of the Legislature.

"In conversation upon this subject we sometimes hear a very absurd question: 'If we are now to pay the debts due the British merchants, what have we been fighting for all this while?' Surely not to avoid our just debts, or cheat our creditors; but to rescue our country from the oppression & tyranny of the British Government, and to secure the rights and liberty of ourselves, and our posterity; which we have happily accomplished. The ministry in Great Britain, and the torys here, have indeed constantly accused us of engaging in the war to avoid the payment of our debts; but every honest man has denied so injurious a charge with indignation. Upon the whole, we have certainly obtained better terms of peace than America had cause to expect; all the great points are ceded to us; and I cannot but think it would be highly dangerous and imprudent to risque a Breach of it.

"The people here too, are greatly alarmed at a

prevailing notion that those men who have paid British debts into the treasury in depreciated paper money, instead of making up the real value to their creditors, will now attempt to throw the difference upon the shoulders of the public, and levy it by taxes upon the people.

"I should hope that such an iniquitous scheme will be rejected, with the contempt it deserves. If it is adopted, it will probably cause some violent convulsion; the people being determined, in many parts of the country, to form associations against it, and resist the payment of any taxes imposed on them for discharging the private debts of individuals.

"I hope the Assembly will, as soon as they meet, postpone the collection of the taxes (which by an act of last session were to be paid in this present month) until August or September. The war being ended, the delay will occasion no material inconvenience to the public; and tho' it will not diminish the Revenue a shilling, it will lessen the taxes upon the people 100 p'ct. by enabling them to pay with one half the Tob°, or other produce, which it would at this time require. If the people are compelled to pay immediately, the Merchants taking advantage of their necessity, will keep down the price of Tob° in a manner that may effect the market thro' the whole season; whereas if the collection of taxes is postponed, the people will be under no necessity of selling until the arrival of a great many ships has increased the demand, and raised the price of country produce.

"In short, the immediate collection of taxes will in a great measure deprive the people of the benefits of peace this year.

"One of my sons, and one William Allison (who have in partnership erected a snuff manufactory in this county) have presented a petition to the As-

sembly for laying a duty upon snuff imported from foreign countrys. The reason in support of it being fully stated in their petition, I will not trouble you with a recapitulation, but I beg the favour of you to examine the petition, and if you think it just and reasonable, I flatter myself it will have your support and patronage.

"My son George (who is still in Europe) desires me to present his most respectful compliments to you, with his thanks for the testimonial you were so kind as to give him, under the seal of the Commonwealth; it has been of great service in recommending him to the notice of many gentlemen of Rank and fortune. I have lately received a letter from him, dated in Paris the 20th of February, in which he gives strong hints of great duplicity in some articles of European politics; such as he says he does not care to venture upon paper that is to cross the Atlantic; but shall reserve the communication until he arrives in America; which he expects will be about the beginning of July; and concludes with the following expression: 'I wish America would put her trust only in God, and herself, and have as little to do with the politics of Europe as possible.' He tells me our old friend Mazzey was then in Paris, and preparing to return to America.

"I have reason to apologize for this long epistle; but I hope your candour will excuse it, and ascribe it to its true cause, the unfeign'd esteem and regard with which I am dear sir,

"Your affectionate & obd^{t} sert.,

"G. Mason.

"Honble Patrick Henry, Esq."

This letter was not simply the kind expressions of a friend, but the estimate of Mr. Henry's power as a leader which was entertained by friend and

foe, as is shown in the correspondence of the day. This is plainly seen in the letters of Mr. Madison and Mr. Jefferson, published in their works.

At the May session, 1783, Mr. Henry was present at the organization of the House, and was made chairman of the committee on Propositions and Grievances, and a member of the committees on Privileges and Elections, Religion, and Courts of Justice. His name does not appear on the Journal after June 13, although there are several recorded votes afterward. As no leave of absence was asked for him during the subsequent fifteen days of the session, it is quite certain he was detained from his seat by indisposition. At the October session, 1783, he did not appear in his seat till the 14th, seven days after the House met. He was subsequently added to the committees on Privileges and Elections, Propositions and Grievances, Claims, and Commerce. He seems to have left his seat on December 13, and not to have returned to it during the nine remaining days of the session. At the spring session, 1784, he appeared on May 15, eleven days after the House organized, and served the rest of the session. On taking his seat he was added to the committees on Religion, Privileges and Elections, Propositions and Grievances, and Courts of Justice. He was in his seat on the first day of the October session, 1784, and was made chairman of the Committee on Privileges and Elections, and a member of the Committees on Religion, Propositions and Grievances, and Commerce. He was elected Governor on November 17, for the term commencing the 30th.

At the May session, 1783, Mr. Henry put in

nomination for the Speakership John Tyler, who was elected over Richard Henry Lee. Mr. Henry was the devoted friend of Judge Tyler, but his nomination against Lee was an indication that the strong friendship between Henry and Lee had been somewhat strained by the different views they had maintained in the House on some of the important questions of the times. The biographer of Colonel Lee has stated that this difference commenced upon the financial policy of the State, more particularly regarding the legal tender acts, which Colonel Lee opposed.

On the first day of the session, Mr. Henry moved the repeal of the act prohibiting the importation of British goods,[1] and carried it against a strong opposition, embracing his friend whom he had just made speaker, and who gave Mr. Wirt the following account of what occurred:

"Mr. Henry espoused the measure which took off the restraints on British commerce, before any treaty was entered into; in which I opposed him on this ground, that that measure would expel from this country the trade of every other nation, on account of our habits, language, and the manner of conducting business on credit between us and them; also on this ground, in addition to the above, that if we changed the then current of commerce, we should drive away all competition, and never perhaps regain it (which has literally happened). In reply to these observations, he was beyond all expression eloquent and sublime. After painting the distress of the people, struggling through a perilous war, cut off from commerce so long that they were

[1] Journal, 586; Hening, Statutes at Large, ii., 195.

naked and unclothed, he concluded with a figure, or rather with a series of figures, which I shall never forget, because, beautiful as they were in themselves, their effect was heightened beyond all description, by the manner in which he acted what he spoke:—'Why,' said he, 'should we fetter commerce? If a man is in chains, he droops and bows to the earth, for his spirits are broken (looking sorrowfully at his feet); but let him twist the fetters from his legs, and he will stand erect;'—straightening himself, and assuming a look of proud defiance.—'Fetter not commerce, sir—let her be as free as the air—she will range the whole creation, and return on the wings of the four winds of heaven, to bless the land with plenty." [1]

A kindred measure to this was afterward introduced by Mr. Henry, but owing to the great opposition manifested, or his indisposition, it was not taken up in Committee of the Whole till the fall session, when it was carried. This was the repeal of the act which had excluded the Tories from the rights of citizenship, and granting them permission to return to the State.[2] We have Judge Tyler's account of this motion also, in his letter to Mr. Wirt.[3] He relates that the deep-rooted prejudice existing against this proscribed class caused violent opposition, and apparently insuperable repugnance, at first, and Mr. Henry's proposal excited the strongest surprise. Judge Tyler himself opposed it in the Committee of the Whole with great warmth. In the course of the discussion he turned from the chairman, and addressed Mr. Henry with the inquiry,

[1] Wirt's Henry, 254–5.

[2] Journal, 22, 76; Hening, Statutes at Large, ii., 324.

[3] Wirt's Patrick Henry, edition 1836, p. 250.

"how he, above all other men, could think of inviting into his family an enemy from whose insults and injuries he had suffered so severely?" To this Mr. Henry answered, that,

"The personal feeling of a politician ought not to be permitted to enter those walls. The question (he said) was a national one, and in deciding it, if they acted wisely, nothing would be regarded but the interest of the nation. On the altar of his country's good he was willing to sacrifice all personal resentments, all private wrongs—and he flattered himself that he was not the only man in the House who was capable of making such a sacrifice. We have, sir (said he), an extensive country, without population—what can be more obvious policy than that this country ought to be populated? People, sir, form the strength and constitute the wealth of a nation. I want to see our vast forest filled up by some process a little more speedy than the ordinary course of nature. I wish to see these states rapidly ascending to the rank which their natural advantages authorize them to hold among the nations of the earth. Cast your eye, sir, over this extensive country—observe the salubrity of your climate, the variety and fertility of your soil—and see that soil intersected in every quarter by bold, navigable streams, flowing to the east and to the west as if the finger of heaven were marking out the course of your settlements, inviting you to enterprise, and pointing the way to wealth. Sir, you are destined, at some time or other, to become a great agricultural and commercial people; the only question is, whether you choose to reach this point by slow gradations, and at some distant period—lingering on through a long and sickly minority—subjected, meanwhile, to machinations, insults, and oppressions

of enemies, foreign and domestic, without sufficient strength to resist and chastise them—or whether you choose rather to rush at once, as it were, to the full enjoyment of those high destinies, and be able to cope, single-handed, with the proudest oppressors of the old world. If you prefer the latter course, as I trust you do, encourage emigration—encourage the husbandmen, the mechanics, the merchants of the old world, to come and settle in this land of promise—make it the home of the skilful, the industrious, the fortunate, the happy, as well as the asylum of the distressed—fill up the measure of your population as speedily as you can, by the means which heaven has placed in your hands—and I venture to prophesy there are those now living who will see this favored land among the most powerful on earth—able, sir, to take care of herself, without resorting to that policy which is always so dangerous, though sometimes unavoidable, of calling in foreign aid. Yes, sir, they will see her great in arts and in arms—her golden harvests waving over fields of immeasurable extent—her commerce penetrating the most distant seas, and her cannon silencing the vain boasts of those who now proudly affect to rule the waves. But, sir, you must have *men*—you cannot get along without them—those heavy forests of valuable timber, under which your lands are groaning, must be cleared away—those vast riches which cover the face of your soil, as well as those which lie hid in its bosom, are to be developed and gathered only by the skill and enterprise of men — your timber, sir, must be worked up into ships to transport the productions of the soil from which it has been cleared —then you must have commercial men and commercial capital to take off your productions, and find the best markets for them abroad—your great want, sir, is the want of men; and these you

must have, and will have speedily, if you are wise.

"Do you ask how you are to get them? Open your doors, sir, and they will come in—the population of the old world is full to overflowing—that population is ground, too, by the oppressions of the governments under which they live. Sir, they are already standing on tiptoe upon their native shores, and looking to your coasts with a wistful and longing eye—they see here a land blessed with natural and political advantages which are not equalled by those of any other country upon earth—a land on which Providence hath emptied the horn of abundance—a land over which peace hath now stretched forth her white wings, and where content and plenty lie down at every door! Sir, they see something more attractive than all this—they see a land in which liberty hath taken up her abode—that liberty, whom they had considered as a fabled goddess existing only in the fancies of poets—they see her here a real divinity—her altars rising on every hand throughout these happy states—her glories chanted by three millions of tongues—and the whole region smiling under her blessed influence. Sir, let but this, our celestial goddess, Liberty, stretch forth her fair hand toward the people of the old world—tell them to come, and bid them welcome—and you will see them pouring in from the north, from the south, from the east, and from the west—your wildernesses will be cleared and settled—your deserts will smile—your ranks will be filled, and you will soon be in a condition to defy the powers of any adversary.

"But gentlemen object to any accession from Great Britain, and particularly to the return of the British refugees. Sir, I feel no objection to the return of those deluded people—they have to be sure mistaken their own interests most wofully, and most wofully have they suffered the punishment

due to their offences. But the relations which we bear to them and to their native country are now changed, their king hath acknowledged our independence—the quarrel is over—peace hath returned and found us a free people. Let us have the magnanimity, sir, to lay aside our antipathies and prejudices, and consider the subject in a political light. Those are an enterprising, moneyed people, they will be serviceable in taking off the surplus produce of our lands, and supplying us with necessaries, during the infant state of our manufactures. Even if they be inimical to us in point of feeling and principle, I can see no objection in a political view, in making them tributary to our advantage. And as I have no prejudices to prevent my making this use of them, so, sir, I have no fear of any mischief that they can do us. Afraid of *them!* What, sir," said he, rising to one of his loftiest attitudes, and assuming a look of the most indignant and sovereign contempt. "Shall *we*, who have laid the proud British *lion* at our feet, now be afraid of his whelps?"[1]

In reading these and other descriptions of Mr. Henry's speeches by his contemporaries, one is struck with the similarity of his style to that of Chatham and Mirabeau, as described by Macaulay. Says this brilliant writer:

"Sudden bursts, which seemed to be the effect of inspiration; short sentences, which came like lightning—dazzling, burning, striking down everything before them; sentences which, spoken at critical moments, decided the fate of great questions; sentences which everybody still knows by heart—in these, chiefly, lay the oratorical powers of both Chatham and Mirabeau."

[1] Wirt's Henry, 250-4. Mr. Wirt states that Chancellor Wythe used to quote this figure to his law class at William and Mary.

CHAPTER XXXI.

LEGISLATION.—1783–4.

Mr. Henry Advocates Internal Improvements and Educational Institutions.—Hampden Sydney College Chartered.—Spread of French Infidelity Dreaded by Mr. Henry.—Decay of Religion.—Scheme to Support Religious Teachers by Taxation, and to Incorporate Churches.—Attitude of the Baptist and Presbyterian Churches.—Fate of the Measures.—Mr. Jefferson's Bill Establishing Religious Freedom Passed.—It Carries out the Bill of Rights.—Reminiscences of Mr. Henry as a Member of the Legislature.—His Humor.—Embarrassments to the Commerce of the State.—Relations to the Indians.—Bill to Encourage Intermarriages with Whites Offered by Mr. Henry.—His Position as to the Northwestern Land.—Is for Strengthening the Power of Congress over Commerce, and in the Matter of Requisitions.

ANOTHER most important matter to which Mr. Henry turned his attention, and in which he was the pioneer after the Revolution, was the improvement of the waterways of the State. At this session he introduced and carried through a bill "for clearing Roanoke River," which looked to the improvement of its navigation from the falls, near the town of Weldon, to the heads of its tributaries, the Staunton and Dan.[1] Among the incorporated trustees his name appears first. This developed into the "Roanoke Navigation Company," which afterward cut a canal around the falls, and furnished an outlet for the country contiguous to the Roanoke and its tributaries, till the introduction of railroads.

[1] Journal, 8; Hening, ii., 250.

He was also on the committee that introduced a bill, which was not then acted upon, but was brought forward by him again and passed at the next session, "for cutting a navigable canal from the waters of the Elizabeth River to the waters of Albemarle Sound."[1] This became the Dismal Swamp Canal.

The vital subject of education also engaged his attention. At the May session, 1780, he had served on a committee, of which Richard Henry Lee was chairman, that was directed to bring in a bill "for the more general diffusion of knowledge."[2] It is very certain that they had before them the bill drawn by Mr. Jefferson, and reported in 1779 by the revisers, which bears that title. But the time had not come for putting in operation an expensive system of free schools. Indeed, the State was too exhausted financially to attempt any support of common schools. The matter was therefore postponed, and instead Mr. Henry gave every encouragement to schools of higher learning. At the May session, 1783, he was on the committees that reported charters for an Academy in Northampton County,[3] and for Hampden Sydney College, in Prince Edward County.[4] This last committee was composed of the gallant General Lawson, of that county, Messrs. Henry, Richard Henry Lee, Garland Anderson, and Bartlett Anderson. Among the trustees Mr. Henry's name appears second, and next to that of the president of the College, Reverend John Blair Smith, a distinguished Presbyterian divine. It was the development of a Presby-

[1] Journal, 29; Hening, ii., 332; Journal of October, 1783, 57.
[2] Journal, 14. [3] Idem, 43. [4] Idem, 12; Hening, ii., 272.

terian academy, of which Mr. Henry was one of the trustees, and which for nine years had been educating the youth of that section of the State, not only in secular learning, but in the distinctive principles of the Protestant faith. Its incorporation as a college was the commencement of an enlarged and most beneficial career upon which it has continued ever since. It was with an interest which it is difficult to appreciate now, that Mr. Henry extended his fostering care over this, the second college in the State. The venerable William and Mary, the college of the colony, had become sadly perverted from the pious design of its founders, and was under infidel influences. French infidelity was, in fact, permeating the State. Says Bishop Meade, in his "History of the Old Churches and Families of Virginia":[1]

"The intimacy produced between infidel France and our country, by the union of our arms against the common foe, was most baneful in its influence with our citizens generally, and on none more than those of Virginia. The grain of mustard seed which was planted at Williamsburg, about the middle of the century, had taken root there and sprung up and spread its branches over the whole state—the stock still enlarging and strengthening itself there, and the roots shooting deeper into the soil. At the end of the century the college of William and Mary was regarded as the hot bed of infidelity and of the wild politics of France."

Hampden Sydney, with its sister in the valley, Liberty Hall Academy, afterward Washington College, sent forth the men who stemmed this tide un-

[1] Vol. i., 175.

til it was forced to recede in the earlier part of the next century.[1] Mr. Henry, who was deeply pious, and who realized as few men did the danger to the republican institutions of his country from the undermining influence of French infidelity, set himself to counteracting its baneful influence by every means in his power. This fact will prove to be a key to much of his subsequent political course.

The Academy of Hampden Sydney had been conspicuously patriotic. When Governor Henry had called for men to defend the capital, the students had marched with the Reverend Mr. Smith, their tutor, at their head; when General Greene crossed the Dan, and needed recruits, Mr. Smith again volunteered, and some of the students became members of Lee's legion.[2] During the invasion of Cornwallis the Academy was closed, and all united in driving the enemy from the State.[3] It was entirely in harmony with its history, therefore, that the committee who drafted its charter embodied in it a requirement that it should forever teach the principles of the American Revolution. The provision was probably from the pen of Mr. Henry, and is in these words:

"And that in order to preserve in the minds of the students, that sacred love and attachment which they should ever bear to the principles of the present glorious revolution, the greatest care and caution shall be used in electing such professors and masters, to the end that no person shall be so elected unless the uniform tenor of his conduct manifests to

[1] Princeton, which educated many Virginians, is also entitled to great honor in this regard.

[2] Among these was Colonel Clement Carrington, of Charlotte, who greatly distinguished himself. [3] Foote's Sketches of Virginia, 411–12.

the world his sincere affection for the liberty and independence of the United States of America."

With the same patriotic purpose Mr. Henry introduced at the next session a bill "to empower the Governor to give annually, honorary rewards for the best literary performances at the several public schools and colleges within this commonwealth on the subject of the late revolution."[1]

At the May session, Transylvania Seminary, in Kentucky, was incorporated, Colonel William Christian being one of the trustees.[2] To this school eight thousand acres of escheated lands had been given at the May session, 1780.

The desire to educate the people in sound morals, as well as in secular learning, gave rise at this time to one of the most memorable struggles in the history of the State. It grew out of the effort to pass an act to support religious teachers by taxation. It will be remembered that in 1776, on suspending the tax for the support of the ministers of the Episcopal Church, the Legislature invited an expression of the public opinion on the question of a general assessment for the support of religion. Hanover Presbytery at its meeting, April 25, 1777, sent up a memorial against it.[3] At their October session, 1778, the Baptist General Association also memorialized the Legislature against it.[4] At the May session, 1779, the bill for establishing religious freedom, drawn by Mr. Jefferson, with provisions attached for a general assessment, putting all de-

[1] Journal, 35. [2] Hening, ii., 282.
[3] Foote's Sketches of Virginia, 326.
[4] Semple's History of the Baptists, 64.

nominations on the same footing, was proposed, and passed two readings in the House. Its progress was then arrested, and a further expression of public opinion invited.[1] At the next session the act for the support of the Episcopal clergy, which had been suspended from year to year since 1776, was repealed.[2] The Baptist Association, at its October session, 1779, urged the Legislature to pass Mr. Jefferson's bill. Their memorial was presented at the November session of the House, together with a memorial to the same effect, from Amherst County, signed by Episcopalians, Presbyterians, Baptists, and Methodists.[3] The Baptists also presented memorials asking that the Episcopal Church be stripped of the remnant of its exclusive privileges. Hanover Presbytery, in April, 1780, again addressed the Assembly, urging that they abstain from interfering in the government of the Church;[4] and at its meeting, May 10, 1784, the Presbytery also memorialized the Assembly, asking that the exclusive privileges enjoyed by the Episcopal Church be done away with. On the other hand, the Legislature was plied with memorials from Episcopalians, urging an assessment for the support of religion, and the passage of an act incorporating the Episcopal Church.[5] Some of them also distinctly opposed the passage of Mr. Jefferson's bill.

In the meantime the decay of religion and morality was so apparent, that thinking men, who had planned republican government on the basis of the virtue of the people, became greatly alarmed. The letter of George Mason of May 6, 1783, gives evi-

[1] Foote's Sketches of Virginia, 330.
[2] Hening, x., 197.
[3] Meade's Old Churches, ii., 444.
[4] Foote's Sketches, 332.
[5] Meade's Old Churches, ii., 444.

dence of this, and there is abundant evidence from other sources. Bishop Meade states that, "At the commencement of the Revolution, Virginia had ninety-one clergymen, officiating in one hundred and sixty-four churches and chapels; at its close, only twenty-eight ministers were found laboring in the less desolate parishes of the State."[1] Dr. William Hill, a Presbyterian clergyman, then a student at Hampden Sydney, whose reminiscences of his times are quoted by Foote in his sketches of the Presbyterian church in Virginia, says: "The demoralizing effects of the war left religion and the church in a most deplorable condition. The Sabbath had been almost forgotten, and public morals sadly deteriorated."[2] Semple, in his "History of the Baptist Church in Virginia," bears testimony to the same effect. He says,[3] "With some few exceptions, the declension (of religion) was general throughout the State. Iniquity greatly abounded."

The support of religious teachers by the voluntary contributions of the people, when those people were impoverished and demoralized by the late war, seemed destined to be a failure, and the pious patriotism of Mr. Henry shuddered for the event. At the May session, 1784, the subject was brought to the attention of the House by memorials from the Baptist Association and Hanover Presbytery, praying that the Episcopal Church, still clinging to some remnants of the establishment, be put upon the same footing as the other denominations.[4] The subjects most complained of were, the retention of the glebe lands, unnecessary restrictions on other

[1] Meade's Old Churches, i., 17.
[2] Foote's Sketches, 412.
[3] Semple's History of Baptists, 36.
[4] Journal, 20–21.

ministers celebrating marriages, and requiring members of vestries to be Episcopalians. On the other hand, the Episcopal Church petitioned for further security for their glebe lands and other property, and for an act of incorporation, "to enable them to regulate all spiritual concerns of the Church, alter its form of worship, and constitute such canons, by-laws and rules for government and good order thereof, as are suited to their religious principles; and in general, that the Legislature will aid and patronize the Christian religion." This was reinforced by a petition from some of the citizens of Powhatan County, setting forth that "they are of opinion a reasonable and moderate contribution of the people for the support of ministers of the Gospel and the Christian religion in the public worship of God, is essential to the good and prosperity of the commonwealth." [1] The papers from the churches were all reported on by the Committee for Religion, and their prayers declared to be reasonable.[2] That committee was directed to bring in bills pursuant thereto. A bill for the incorporation of the Episcopal Church was reported, but after being debated two days in Committee of the Whole, was postponed till the ensuing session. Mr. Madison, in writing about the proposal, said: "Extraordinary as such a project was, it was preserved from a dishonorable death by the talents of Mr. Henry." [3] As to the proposal for an assessment, he wrote: "The friends of the measure did not choose to try their strength in the House." [4] At the November session following, the questions of the incorporation of the

[1] Journal, 36.
[2] Idem, 43.
[3] Rives's Madison, i., 562.
[4] Idem, i., 561.

churches, and of a general assessment for the support of religion, again came up for discussion, but under very different circumstances. The subject of assessment was introduced by a petition from Isle of Wight County, urging the necessity of such a measure; and by a memorial of Hanover Presbytery, adopted at its October session, 1784, consenting to what they deemed inevitable. The apparent change of position of this venerable body excited great surprise. They still insisted that "religion as a spiritual system, and its ministers in a professional capacity, ought not to be under the direction of the State." They claimed, however, that "it is absolutely necessary to the existence and welfare of every political combination of men in society, to have the support of religion and its solemn institutions." On this account they concluded that the State might take steps to "preserve the public worship of the Deity, and support institutions for inculcating the great fundamental principles of all religion." They pray that any assessment which might be ordered should be "on the most liberal plan." [1] The Baptist Associations, although again petitioning against the marriage and vestry laws, were silent as to church incorporations or assessments.[2] Concerning the assessment Mr. Madison wrote to Mr. Jefferson: "Many petitions from below the Blue Ridge had prayed for such a law; and though several from the Presbyterian laity beyond it were in a contrary stile, the clergy of that sect favored it. The other sects seemed to be passive." [3]

[1] Foote's Sketches, 336–37.
[2] Journal, 18; Semple's History of Baptists, 70.
[3] Letter of January, 1785, Madison's Works, i., 130.

In this condition of affairs, the friends of legislation for the Church felt that they could safely urge their measures, and that they would be supported by the people. On November 11, the Committee of the Whole reported in favor of "a moderate assessment for the support of the Christian religion;" and the report was agreed to by a recorded vote of 47 to 32. Mr. Henry was chairman of the committee to draft the bill. On the 17th, the Committee of the Whole reported in favor of the Presbyterian and Baptist memorials on the subjects of marriages and vestries, and also "that acts ought to pass for the incorporation of all societies of the Christian religion which may apply for the same." This last was agreed to by a recorded vote of 62 to 23, and Mr. Henry was one of the committee ordered to bring in a bill "to incorporate the clergy of the Protestant Episcopal Church." [1]

Mr. Henry left the body to remove his family to the capital, and enter upon the office of Governor, before either of these bills were reported, but it is quite certain that he approved of them. The bill of incorporation was freed from some of the most objectionable features of the measure as first proposed. It was not for the incorporation of the clergy of the Episcopal church, as distinct from the laity, but of "the Protestant Episcopal Church," embracing both clergy and laity. Although Mr. Madison voted against the resolution of the Committee of the Whole on the subject, he voted for the bill reported.[2]

The bill for a general assessment was also stripped of nearly every objectionable feature, and was as

[1] Journal, 27. [2] Idem, 79; See Act, Hening, ii., 532.

perfect as such a measure could well be. It proposed a small tax on all taxable property for the support of teachers of the Christian religion, each taxpayer to name the society to which he wished his tax dedicated, and in case of refusal to do so, the tax to be applied to the maintenance of a school in the county.[1]

This was in effect a tax for the support of secular education, with the privilege to each taxpayer of devoting his tax to the support of the religious teachers of his own denomination. Mr. Madison led the opposition to it, and counted largely on Mr. Henry's absence for its defeat. He wrote, November 27th, "Mr. Henry, the father of the scheme, is gone up to his seat for his family, and will no more sit in the House of Delegates—a circumstance very inauspicious to his offspring."[2] Notwithstanding the absence of "the father of the scheme," its opponents found themselves in the minority, and the bill was ordered to its third reading on December 23. On the next day, however, Mr. Madison proposed and carried a resolution to postpone its further consideration till the next session, with a request that the people then signify their opinion on the subject.[3] The question thus submitted to the people soon aroused intense interest throughout the State. Memorials for and against the bill were actively circulated for signatures. The one drafted by Mr. Madison for its opponents was a masterly discussion of the subject, and presented with great force the argument for entire separation of Church and State, based upon the principle introduced into

[1] Rives's Madison, i., 610; Madison's Works, i., 130.
[2] Rives's Madison, i., 606. [3] Journal, 82.

the Bill of Rights by Mr. Henry himself. At first Mr. Madison was greatly incensed with the Presbyterian clergy for the memorial of Hanover Presbytery of October, 1784, in which he declared they had misrepresented the laity of that church.[1] But the Presbyterian clergy soon regained their old attitude upon the subject. At the meeting of Presbytery in May, 1785, the body unanimously disapproved of "any kind of assessment for the support of religion."[2] They also called a convention of the church which met August 10, and adopted a strong memorial to the Legislature opposing the proposed bill, and asking that Mr. Jefferson's bill, reported in 1779, be adopted.[3] The general committee of the Baptist churches met during the same month, and also ordered a memorial against the bill.[4] But so much more numerous were the Presbyterians in the State, that the opposition to the measure became known as a Presbyterian movement. Edmund Randolph wrote to Arthur Lee, September 24, 1785, concerning the approaching session: "Religion will form a capital figure in the debates of the next Assembly. The Presbyterians will have a sufficient force to prevent the general assessment, possibly to repeal the act of incorporation. The delegates from those counties in which the majority is of that persuasion are expected with full and pointed instructions on both heads."[5]

At the fall meeting of the Legislature, which now entered upon annual sessions, the table of the clerk was covered with memorials for and against

[1] Letter to Monroe, Madison's Works, i., 144.
[2] Foote's Sketches, 341. [3] Idem, 342–44. [4] Idem, 344.
[5] Conway's Edmund Randolph, 163.

the proposed bill. But so great was the preponderance against the measure, that the contest was yielded without further struggle. The greater part of the opposition, as we learn from Mr. Madison's correspondence, was from "the middle and back counties, particularly the latter."[1] These contained the bulk of the Scotch-Irish Presbyterian population. In addition to the Presbyterians and Baptists, there were some of the Episcopalians who opposed the scheme of an assessment, but the advocates of the measure were drawn almost exclusively from that church.

The Legislature of 1785 did not stop with the defeat of the assessment bill. It took up and passed Mr. Jefferson's bill "for the establishment of religious freedom," which had been reported by the revisers in 1779. This had been a subject of contention since its publication. The Baptist General Association at its next meeting in October, 1779, expressed their hearty approval of it,[2] and we have seen that the Presbyterians in convention in 1785 urged its passage. Various memorials for and against this bill had been presented to the Legislature from time to time, and the bitterness with which it was attacked may be seen in a memorial from Essex County, presented October 22, 1779, in which it is denounced as a "diabolical scheme."[3] Since its passage it has been recognized by all as the just expression of the absolute divorce which should ever exist between Church and State. But it is nothing more than an exposition of the principle inserted by Mr. Henry into the Bill of Rights,

[1] Madison's Works, i., 155. [2] Semple's History of Baptists, 65.
[3] MS. Memorial in State Archives.

that religion is a matter to be determined by every man's conscience in accordance with his convictions. This is expressly stated by the Legislature of 1799, which in repealing all acts deemed inconsistent with this principle, declared that the Bill of Rights, by referring religion to conscience, had taken it from under civil control, and that Mr. Jefferson's bill was a true exposition of its principle in that regard.[1] That bill, after a long preamble in Mr. Jefferson's peculiar style, containing an argument for religious liberty, is as follows:

"No man shall be compelled to frequent or support any religious worship or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions, or belief; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in nowise diminish, enlarge, or affect, their civil capacities."

The efforts of the Episcopal Church to entrench itself behind the civil power, hastened the loss of all its peculiar privileges. At the session of 1786, the act of incorporation of 1784 was repealed, in accordance with the earnest petitions of the Presbyterian and Baptist population. In 1799 all other acts were repealed which were deemed inconsistent with the Bill of Rights as defined by Mr. Jefferson's bill, and in 1802 the glebe lands were taken away and applied to public uses. One result of the struggle of 1784–85, was to carry the doctrine of separation between Church and State to such

[1] See Revised Code of 1819, vol. i., p. 78.

an extreme, in Virginia, as to deny that protection to property devoted to religious uses which was accorded to property devoted to secular purposes. Thus it was many years before a theological seminary could obtain an act of incorporation, and it has only been within the last few years that religious charities have been enforced by Virginia courts, as they have been in nearly every other State in the Union.[1]

But the discussion had another, and most beneficial effect. It made the friends of religion rally to its support on the voluntary principle, and the Church has been self-sustaining and steady in its growth ever since. The separation of Church and State, and the voluntary support of the Church by its own members, have proved the greatest of blessings to the Church as well as to the State. The Episcopal Church itself has flourished as never before, and would not now return to the old system.

Mr. Henry's advocacy of the assessment bill, and the incorporation act, has been considered a blunder. But his views were approved by Washington, Richard Henry Lee, John Marshall, and Henry Tazewell,[2] and whatever may have been his error, it was on virtue's side. His design was to support Christianity against French infidelity. Doubtless much of the opposition to the assessment bill came from the poverty of the people, and the difficulty they experienced in paying the taxes necessary for the support of government, and the payment of the public debt incurred during the war. In this distress Mr. Henry keenly sympathized, and under his leadership sev-

[1] Vide the case of Episcopal Educational Society vs. Churchman, Eighteth Virginia Reports. [2] Rives's Madison, vol. i., p. 602.

eral bills were passed, during 1783 and 1784, for temporarily postponing the collection of taxes.

We have the following graphic account of one of his triumphs in opposing an increase of taxation, from the pen of Judge Archibald Stuart, in a letter to Mr. Wirt:

"At your request, I attempt a narrative of the extraordinary effects of Mr. Henry's eloquence in the Virginia legislature, about the year 1784, when I was present as a member of that body.

"The finances of the country had been much deranged during the war, and public credit was at a low ebb; a party in the legislature thought it then high time to place the character and credit of the state on a more respectable footing by laying taxes commensurate with all the public demands.

"With this view, a bill had been brought into the house, and referred to a committee of the whole, in support of which the then speaker (Mr. Tyler), Henry Tazewell, Mann Page, William Ronald, and many other members of great respectability (including, to the best of my recollection, Richard H. Lee, and perhaps Mr. Madison), took an active part. Mr. Henry, on the other hand, was of opinion that this was a premature attempt; that policy required that the people should have some repose after the fatigues and privations to which they had been subjected, during a long and arduous struggle for independence.

"The advocates of the bill, in committee of the whole house, used their utmost efforts, and were successful in conforming it to their views, by such a majority (say thirty) as seemed to ensure its passage. When the committee rose, the bill was instantly reported to the house, when Mr. Henry, who had been excited and roused by his recent defeat, came

forward again in all the majesty of his power. For some time after he commenced speaking the countenances of his opponents indicated no apprehension of danger to their cause. The feelings of Mr. Tyler, which were sometimes warm, could not on that occasion be concealed, even in the chair. His countenance was forbidding, even repulsive, and his face turned from the speaker. Mr. Tazewell was reading a pamphlet; and Mr. Page was more than usually grave. After some time, however, it was discovered that Mr. Tyler's countenance gradually began to relax; he would occasionally look at Mr. Henry; sometimes smile; his attention by degrees became more fixed; at length it became completely so:—he next appeared to be in good humour; he leaned towards Mr. Henry—appeared charmed and delighted, and finally lost in wonder and amazement. The progress of these feelings was legible in his countenance.

"Mr. Henry drew a most affecting picture of the state of poverty and suffering in which the people of the upper counties had been left by the war. His delineations of their wants and wretchedness was so minute, so full of feeling, and withal so true, that he could scarcely fail to enlist on his side every sympathetic mind. He contrasted the severe toil by which they had to gain their daily subsistence, with the facilities enjoyed by the people of the lower counties. The latter, he said, residing on the salt rivers and creeks, could draw their supplies at pleasure from the waters that flowed by their doors; and then he presented such a ludicrous image of the members who had advocated the bill (the most of whom were from the lower counties), peeping and peering along the shores of the creeks, to pick up their mess of crabs, or paddling off to the oyster rocks to rake for *their daily bread*, as filled the house with a roar of merriment. Mr. Tazewell

laid down his pamphlet and shook his sides with laughter; even the gravity of Mr. Page was affected; a corresponding change of countenance prevailed through the ranks of the advocates of the bill, and you might discover that they had surrendered their cause. In this they were not disappointed; for on a division, Mr. Henry had a majority of upwards of thirty against the bill." [1]

Doubtless this was one of the occasions referred to by Judge Tyler in his letter to Mr. Wirt, in which he said of Mr. Henry:

"I have seen him reply to Page, H. Tazewell, R. H. Lee, and others with such a volume of wit and humour that the house would be in an uproar of laughter, and even set his opponents altogether in a perfect convulsion. But this talent he not often indulged, deeming it beneath a statesman." [2]

This gift of humor is often referred to by Mr. Henry's contemporaries, and it must have constituted him one of the most charming of companions, as his wit was of that character which leaves no sting. The following anecdote presents a specimen of his good-natured pleasantry. During one of the sessions of the Legislature, he and R. H. Lee were of a party who spent a night at the home of Mr. Edmund Randolph, near Richmond. Colonel Lee, who was a brilliant conversationalist, entertained the company to a very late hour, descanting on the genius of Cervantes, especially as it was displayed in "Don Quixote." Finally the company began to yawn, but Colonel Lee did not observe it

[1] Wirt's Life of Henry, 271.

[2] MS. letter written when Mr. Wirt was writing his Life of Henry.

and continued his remarks. Mr. Henry took in the situation, and rising slowly from his chair, walked across the room, remarking that "Don Quixote" was certainly a most excellent work, and most skilfully adapted to the purpose of the author; "but," said he, "Mr. Lee," stopping before him with a most significant archness of look, "you have overlooked, in your eulogy, one of the finest things in the book." "What is that?" asked Lee. "It is," said Mr. Henry, "that divine exclamation of Sancho, 'Blessed be the man that first invented sleep; it covers one all over, like a cloak.'" Mr. Lee took the hint, and the company broke up in good humour.[1]

Fortunately the year 1784 was one of large yield to the planters, and the necessity for further indulgence in collecting taxes ceased. With all the difficulties which beset the State, her payments into the continental treasury from April, 1783, to November, 1784, amounted to £123,202, 11s. 1½d.[2]

Not the least of these difficulties was the condition of her commerce. Mr. Madison wrote concerning it, December 10, 1783: "It cannot pay less to Philadelphia and Baltimore, if one may judge from a comparison of prices here and in Europe, than thirty or forty per cent. on all the exports and imports; a tribute which, if paid into the treasury of the State, would yield a surplus above all its wants."[3] This came from the monopoly of the trade of Virginia already enjoyed by the British merchants, who running their vessels up the numerous rivers which emptied into the Bay, dealt directly

[1] Wirt's Henry, 423. [2] Madison's Works, i., 128.
[3] Rives's Madison, i., 543.

with the planters; and by allowing them long credits on the goods sold them, were enabled afterward to get their produce at prices far below what it would have brought in open market.

To remedy this, and at the same time to build up one or more great commercial marts in the State, Mr. Madison introduced a bill restricting foreign vessels to the two ports of Norfolk and Alexandria. A warm struggle ensued, and in order to carry the bill its advocates were obliged to add York, Tappahannock, and Bermuda Hundreds to the list. In this shape the bill passed.[1] In the recorded vote the name of Mr. Henry is found among the yeas,[2] and there can be little doubt that he aided Mr. Madison in its passage. Had the policy thus attempted to be inaugurated been strictly pursued, and the foreign commerce of the State confined to one or two ports, the result would have been as many great cities within her bounds. But by a contrary course, the very wealth of her natural advantages has contributed to her poverty, and the rivalry of her seaports has diverted her trade northward. What should have built up a great city on her coast has added to the growth of Baltimore, Philadelphia, and New York.

The monopoly of American commerce was attempted by Great Britain, even before the signing of the preliminary articles of peace. By an order of Council, July 2, 1783, made under express authority of Parliament, the carrying of American products to the British West Indies was prohibited, except in British vessels manned by British sailors.

[1] Madison's Works, i., 87; Hening, ii., 402.
[2] Journal of May session, 1784, 61.

At the fall session a committee, of which Mr. Henry was a member, brought in a bill authorizing Congress to retaliate by prohibiting the importation of goods from the British West Indies, or in any other mode which might best counteract the designs of Great Britain.[1] At the May session, 1784, a resolution was adopted, declaring that Congress should have power for fifteen years to prohibit vessels of any nation, not having commercial treaties with the United States, to trade with any of the States, and foreigners from importing into the United States the produce or manufactures of countries not their own, unless under treaty stipulations.[2] This was in accordance with a resolution of Congress, with whom Great Britain refused to make a commercial treaty.

Another act, relating to intercourse with neighboring nations, was introduced by Mr. Madison at the November session, 1784, and warmly advocated by Mr. Henry.[3] It provided for the punishment of crimes committed by citizens of Virginia within the territory of any Christian nation or Indian tribe, in amity with the United States.[4] It was levelled at what has been known since as *filibustering*, and is perhaps the first formal enactment against it by any legislative body. This most honorable recognition of the principles of international justice and integrity, was occasioned by the reported injuries inflicted on the Spaniards and Indians by the more lawless of the western settlers. Indeed, the restrictions on the navigation of the Mississippi by the Spaniards was a constant source of irritation between the western settlers and that people; and the resolution to bring

[1] Journal, 46; Hening, ii., 313.
[2] Hening, ii., 388.
[3] Madison's Works, 128.
[4] Hening, ii., 471.

in the bill was accompanied by another, demanding that Congress take steps to obtain the free navigation of that river.[1] No less deplorable were the conflicts between the Indians and the whites on the borders. To prevent these, Mr. Henry bent his earnest endeavors. The bill just mentioned was also accompanied by a resolution instructing the delegates in Congress to urge the necessity of forming treaties with the Indians in the southern department.[2] And on November 5, Mr. Henry moved the following resolution, which was carried:

"*Resolved*, That the Governor, with the advice of the Council, be requested to adopt such measures, as may be found necessary, to avert the danger of hostilities with the Indians, and to incline them to treat with the commissioners of Congress, and for that purpose to draw on the treasury for any sum of money not exceeding £1,000, which shall stand charged to account of money issued for the contingent charges of Government."

But Mr. Henry well knew that presents to the Indians, and treaties with them, were but temporary expedients. He looked for a permanent remedy for the feverish hostility which existed between the whites and the red men of the forest. This he could only hope for by replacing the hatred between the races by kindly affection. To his generous mind the best way to accomplish this was to unite the two by ties of blood. He therefore, on November 16, introduced a resolution for the encouragement of marriages with the Indians.[3] This he advocated "with irresistible earnestness and elo-

[1] Journal, 9. [2] Idem, 9. [3] Idem, 25.

quence,"[1] and carried. The inducements to be offered were pecuniary bounties at marriage, and at the birth of each child; exemption from taxes, and common schools to be provided for the education of the children. A bill was introduced in accordance with the resolution, and passed its first and second reading and engrossment for its final passage; but the removal of Mr. Henry to the Governor's chair left it without his eloquent support, and it failed on its third reading. Whatever may be thought of the soundness of the policy thus advocated by Mr. Henry, all must admit that it does honor to his heart, and is another evidence of the boldness and independence of his statesmanship.

It is interesting to find that John Marshall approved of this bill. In a letter to James Monroe, of December, 1784, he writes: "We have rejected some (bills) which in my conception would have been advantageous to this country. Among these I rank the bill for encouraging intermarriages with the Indians. Our prejudices, however, oppose themselves to our interests, and operate too powerfully for them."[2]

When the Legislature met in May, 1783, the action of Congress in reference to the cession of the Northwestern territory tendered by Virginia, had caused the deepest irritation. Mr. Jefferson wrote June 17, from Monticello, to Mr. Madison, then in Congress: "Instead of ceding more lands to the United States, a proposition is made to revoke the former cession. Mr. Henry is for bounding our state reasonably enough, but instead of ceding the

[1] Wirt's Henry, 258, where the bill is given which he framed in consequence. [2] Bancroft's History of the Constitution, i., 399.

parts lopped off, he is for laying them off into small republics. What further his plan is, I do not hear." Whatever reliance can be placed on Mr. Jefferson's information, the source of which he does not indicate, it is very certain, that upon the action of Congress proposing to accept the cession of Virginia with some slight and not material alterations in her conditions, Mr. Henry was the advocate of the measure as proposed by Congress. At the fall session, 1783, the act of Congress was communicated to the Legislature. On December 9, the body in Committee of the Whole,

"*Resolved*, That the delegates of this state to the Congress of the United States, be instructed and fully authorized to convey by proper instrument in writing, on the part of this State to the Congress of the United States, all right, title and claim, which the said commonwealth hath to the lands northward of the river Ohio, upon the terms contained in the act of Congress of September 13 last: Provided, that lands be reserved out of those hereby proposed to be ceded, sufficient to make good the several military bounties agreed to be given to sundry officers by resolutions of both Houses of Assembly; the lands hitherto reserved being insufficient for that purpose."[1]

Mr. Henry was on the committee ordered to bring in a bill pursuant to this resolution.[2] The bill was reported by Mr. Joseph Jones, of the committee, on December 15, and passed the House on the 19th,[3] and under it the great deed was executed which has so powerfully affected the future of America.

[1] Journal, 53. [2] Idem, 53. [3] Idem, 62 and 71.

During the sessions under consideration, the proposal to amend the articles of confederation so as to give Congress greater powers for the collection of the revenue needed for the United States, excited the profoundest interest. It has been seen that the request of Congress of February 3, 1781, to be vested with power to levy a duty of five per cent. on imports, was promptly acceded to by Virginia at the session of the Legislature in June following. Mr. Henry then approved of the measure. As several of the States had failed to take similar action, the Virginia Legislature at its next session suspended the act until all the other States should give their consent. At the session of October, 1782, which Mr. Henry did not attend, the Legislature, under the influence of Richard Henry Lee, repealed the act of 1781 consenting to the proposal. The preamble to the repealing act based it upon the statement, that the exercise by any body, other than the Legislature, of the power "to levy duties or taxes upon the citizens of this State within the same, is injurious to its sovereignty, and may prove destructive of the rights and liberties of the people." This declaration was at war with any plan of general revenue under the control of Congress. It was obvious, however, that Congress must be vested with the power of collecting an adequate revenue, not only to meet the demands of her foreign creditors, but to satisfy the army, who were not disposed to disband until provision was made for their dues. Congress, therefore, under the lead of Mr. Madison, again, and urgently, repeated the former request, modifying the plan so as to avoid some of the objections urged against it. This new plan, which

placed the appointment of the collectors with the States, was sent down to the several legislatures in the spring of 1783. The fate of the measure in Virginia rested with Mr. Henry. Mr. Jefferson, who had remained in Richmond to exert his influence for its adoption, wrote to Mr. Madison, May 7, giving his conclusions as to the probable division of the prominent members of the Legislature on the subject. In this letter he exhibited the feeling toward Mr. Henry which had been aroused in 1781, and had rendered him incapable of doing justice to his former friend. He wrote:

"Henry, as usual, is involved in mystery. Should the popular tide run strongly in either direction, he will fall in with it. Should it not, he will have a struggle between his enmity to the Lees and his enmity to everything which may give influence to Congress."[1]

Nothing could be more unjust than this description of Mr. Henry. That he led instead of following the popular tide, his whole political life had demonstrated, and no one had been more ready to recognize the fact than Mr. Jefferson. That he was an enemy of Richard Henry Lee, or of the proposal to strengthen the federal arm, his conduct both before and after the date of this letter demonstrates to be untrue. It may be that he was unwilling to take his position at the beginning of the session on questions he had not been able carefully to examine in his remote country home, but this would only show a proper caution, entirely consistent with his known independence of thought and action.

[1] Bancroft's History of the Constitution, i., 310.

On June 1, Mr. Jefferson wrote from Monticello to the same correspondent: "Mr. Henry has declared in favor of the impost. This will ensure it. How he is on the other questions of importance I do not know." [1] By the Journal it appears that on May 14, two days after the House organized, it adopted a resolution, "That an impost of five per cent. on certain goods imported, ought to be granted to discharge certain engagements made by Congress, under proper regulations," and Mr. Henry was one of the committee appointed to bring in a proper bill for the purpose.[2] This shows that he had at that time declared in favor of the measure, and instead of falling in with the tide, we have Mr. Jefferson's statement that the measure was assured by his advocacy.[3]

But the measure was defeated at this session by the very means taken to insure its success. Along with the act of Congress asking for power to levy the duty, there had been sent a copy of the answer of Congress to the objections urged by the Rhode Island Legislature to the plan. This answer had been drawn by Alexander Hamilton with great ability, but unfortunately he had inserted into it the suggestion, that Congress, by having the power to contract debts binding upon the States, had the constructive power to provide the means for their payment regardless of the agency of the States. This claim, not necessary for the purpose sought, the explicit grant to Congress of the power so implied, was not at first noticed; but when the papers

[1] Bancroft's History of the Constitution, i., 311. [2] Journal, 7.

[3] See Jones to Madison, Letters of Joseph Jones, 107, for some of the grounds of opposition urged against the measure.

sent by Congress were considered, the claim involved produced an entire change in the sentiments of most of the friends of the measure. It was looked upon as destructive of the reserved rights of the States, and members were unwilling to vest additional powers in a body disposed to extend its powers so dangerously by construction.[1] Among those thus affected by Hamilton's paper was Mr. Henry. Mr. Jefferson wrote to Mr. Madison, June 17: "Mr. Henry had declared in favor of the impost, but when the question came on he was utterly silent."[2] The vote against it was so large that no division was called for. The Legislature at the same time resolved to levy the duty asked for by Congress with its own officers, and to apply the proceeds to the State's quota of the continental debt, any deficiency to be made up from the tax on land and slaves.[3] Mr. Henry was one of the committee to bring in a bill for this purpose, and he carried the measure against Richard H. Lee.[4]

In the meantime General Washington, on June 8, from his headquarters at Newburg, wrote his celebrated letter to the Governors of the several States on disbanding his army.[5] In this, which he intended as his legacy to the people whose liberties had been saved by his sword, he pointed out the weakness of the Confederation, and the consequent danger to the liberties which had been so dearly bought, and urged that Congress be vested with power to collect its revenue without reliance on

[1] Rives's Madison, i., 435.

[2] Bancroft's History of the Constitution, i., 317. [3] Journal, 48.

[4] Joseph Jones to Madison, June 14, 1783, Letters of Joseph Jones, 117. [5] Sparks, viii., 439.

the States, thus endorsing specifically the plan proposed. With wonderful wisdom he indicated the essentials of a proper federal government, the foundation upon which the Constitution was afterward constructed. The vote in the Virginia Legislature on granting an impost duty to Congress was taken June 11, some days before Washington's address was received. The love and admiration his great name inspired, gave effect to his earnest advice, and when the Legislature met in November following, it was ready to grant the coveted power to Congress. Two days after Mr. Henry took his seat a resolution was adopted to that effect, and Mr. Henry was one of the committee to frame the bill.[1] It was found impossible, however, to get all the States to assent to the grant of power, and the requisitions of Congress were so greatly neglected that it could not meet the public obligations. Virginia was among the most prompt to respond to the Congressional requisitions, although she claimed that Congress was indebted to her at least one million pounds.[2]

So great was Mr. Henry's anxiety that the federal arm should be strengthened, that it decided him to offer again for the Legislature. His sentiments expressed on getting to Richmond were reported to Mr. Jefferson by William Short, who wrote, May 14, 1784:

"You will be pleased when I inform you of a conversation last evening between Mr. Henry, Mr.

[1] Journal, 18. See bill in Hening, ii., 350.

[2] Joseph Jones to Madison, June 14, 1783, Letters of Joseph Jones, 117.

Madison, and Mr. Jones. I was left in the coffee house with these three. Mr. Henry told them he wished much to have a conference on a subject of importance. The event of it was that Mr. Jones and Mr. Madison should sketch out some plan for giving greater power to the federal government, and that Mr. Henry should support it on the floor. It was thought a bold example set by Virginia would have influence on the other States. Mr. Henry declared that it was the only inducement he had for coming to the present assembly. He saw ruin inevitable unless something was done to give Congress a compulsory process on delinquent States, etc." [1]

Four days after Mr. Henry appeared in his seat, the energy which he desired to infuse into the Federal Government was indicated by a series of resolutions adopted in the Committee of the Whole. They consisted:

In agreeing to the alteration of the eighth article of the Confederation proposed by Congress, so as to make the basis of requisitions all free white inhabitants and three-fifths of all others, instead of the value of lands;

In urging a prompt compliance by the States with all requisitions, on whatever basis made;

In urging Congress to make speedy settlement of its accounts with the several States, by estimation, if necessary, and declaring that the balances due " ought to be enforced, if necessary, by such distress on the property of the defaulting States or of their citizens, as the United States, in Congress assembled, may deem adequate and most eligible;" and

In declaring that Congress ought to be invested,

[1] Bancroft's History of the Constitution i., 361.

for fifteen years, with power to prohibit imports and exports by citizens of other nations not having commercial treaties with the United States.[1] This last was to meet the illiberal policy of Great Britain.

Mr. Madison had written to Mr. Jefferson, May 15: "Mr. Henry arrived yesterday, and from a short conversation I find him strenuous for invigorating the federal government, though without any precise plan."[2] These resolutions, therefore, may be taken as the plan he subsequently determined on. In the Virginia Convention of 1788, Mr. George Nicholas referred to the resolution for the coercion of the States, and said to Mr. Henry: "I am sure that the gentleman recognizes his child," and it was not disowned.

The power of coercion, thus claimed, was different from the right claimed by Hamilton in the reply of Congress to the Legislature of Rhode Island, touching the impost duty. That was a claim to a power to levy a duty on the commerce of the States, nowhere granted in the articles of confederation. This was a claim to force the States to comply with the lawful requisitions of Congress, and it was based on the acknowledged common law of confederacies, both ancient and modern. Such was the construction of the power of Congress, not only by Mr. Henry and Mr. Madison, but by Mr. Jefferson as well.[3]

During the fall session, 1783, Mr. Henry learned of the proposed removal of Colonel Christian and

[1] Journal, 11-12. [2] Madison's Works, i., 80.

[3] Letter to Edward Coles, August 4, 1787, Jefferson's Writings, ii., 203; Rives's Madison, i., 303.

his family to Kentucky. He thereupon wrote to his sister the following affectionate letter of protest:

"RICHMD, Nov. 13th, 1783.

"I have just time to drop a line to you my dear Sister. I am in the room with your good man, I lodge with him. I hear no news from our kindred hereabouts in particular, they being generally well. I left my family well 10 days ago. I wrote you, I think, I had a son born in August. He is the 4th child of my dear Dolly. We are often talking of a visit to you but indeed I am so much and so long in the lower parts on the assembly, that I can find but little time to stay at home. Pray don't go to Kentuckie to live. You and I are already too far off, and in case of death no person to trust our children with. This often hangs heavy on my mind. I always hoped you were not too far to give my family help in case of death, & you and your husband are the only friends in reach. You see therefore it is interest that makes me against your going. But I assure you interest is not the only thing. The Col grows impatient to be at home already as I do. Annie is now at Sister Woods', and has been since spring. Pray send your girls to see us as soon as possible. My wife wants to come downwards next spring.

"Farewell my dear sister

"P. HENRY.

"To MRS. ANNIE CHRISTIAN,
"*Dunkard Bottom.*"

CHAPTER XXXII.

TREATY OF PEACE.—LEGISLATIVE TRIUMPHS.—1783–4.

Ministry Censured because of the Terms of the Treaty of Peace.—The New Ministry Refuses to Comply with Certain of Its Articles.—Posts and Property Retained.—Mr. Henry Induces the Virginia Legislature to Resent the Conduct of England.—His Attitude as to British Debts.—Defeats Effort to Change State Constitution.—Efforts to Regulate Commerce on the Potomac.—Leading Part of Mr. Henry in Doing Honor to Washington and Lafayette.—Washington's Scheme of Internal Improvements.—Failure of Land Grant to Thomas Paine.—Reminiscences of Mr. Henry's Legislative Career by Judge Spencer Roane.—Description of His Person.—Anecdote of Him by Mr. Madison.—Acquaintance with, and Influence over, the Career of Albert Gallatin.—Mr. Henry's Penetration into Character, and His Knowledge of Mankind.

THE definitive treaty of peace with Great Britain, signed by the Commissioners at Paris, September 3, 1783, was ratified by Congress, January 14, 1784.[1] By the fourth article, it was agreed, "that creditors, on either side, shall meet with no lawful impediment to the recovery of the full value in sterling money, of all bona fide debts heretofore contracted." By the seventh article it was provided that, "all prisoners on both sides shall be set at liberty, and his Britannic majesty shall, with all convenient speed, and without causing any destruction, or carrying away any negroes or other property of the American inhabitants, withdraw all his armies, garrisons, and fleets, from the said United States, and

[1] Journal of Congress, 9, 19, where the treaty is given.

from every post, place, and harbor within the same." The Ministry of Lord Shelburne was overthrown by a coalition between Lord North and Fox, which carried a vote of censure in the House of Commons, on February 17, 1783, because of the terms granted the United States in the preliminary articles agreed on. A coalition Ministry followed with the Duke of Portland as its nominal head, and North and Fox its leading members. It did not last long enough to exchange the ratifications of the definitive treaty, which was, in fact, simply the preliminary treaty re-executed. While it lasted, however, a petition was granted, which was presented by certain merchants engaged in the fur trade, praying that the posts on the lakes be not given up.[1] Orders to withdraw from them were withheld, not only by the coalition Ministry, but by its successor, the Pitt Ministry.

In addition, the negroes and other property, taken from the citizens of the United States by the British soldiery, were sent away to Nova Scotia.

When the Virginian Legislature met in May, 1784, the determination of the British to hold the posts south of the lakes was not known, but several citizens of the State had visited New York to recover their captured property, and had been denied their rightful claims. This very naturally aroused a suspicion of bad faith on the part of the British Ministry in executing the treaty. When, therefore, it was proposed by Mr. Madison to repeal the legislation which stood in the way of British creditors recovering their claims against Virginia debtors, the resolution was voted down, and instead a commit-

[1] Bancroft's History of the Constitution, i., 68.

tee was appointed to inquire into the alleged infraction of the treaty by the detention of property belonging to Virginians.[1] Mr. Henry was on this committee, and he was the champion of the movement to resent the infraction.[2] The committee reported the fact of the infraction of the treaty in the detention of a considerable amount of the property of Virginians, which had been formally demanded of General Carlton. This report was adopted, and was followed by the following resolutions:

"That the delegates representing this State in Congress, be instructed to lay before that body the subject matter of the preceding report and resolution, and to request from them a remonstrance to the British Court complaining of the aforesaid infraction of the treaty of peace, and desiring a proper reparation for the injuries consequent thereupon; that said delegates be instructed to inform Congress, that the General Assembly have no inclination to interfere with the power of making treaties with foreign nations, which the confederation hath wisely vested in Congress; but it is conceived that a just regard to the national honor and interest of the citizens of this commonwealth, obliges the Assembly to withhold their co-operation in the complete fulfilment of the said treaty, until the success of the aforesaid remonstrance is known, or Congress shall signify their sentiments touching the premises.

"That so soon as reparation is made for the aforesaid infraction, or Congress shall adjudge it indispensably necessary, such acts of the Legislature, passed during the late war, as inhibit the re-

[1] Journal, 41. [2] Madison to Jefferson, Madison's Works, i., 131.

covery of British debts, ought to be repealed, and payment made thereof in such time and manner as shall consist with the exhausted situation of this commonwealth.

"That the farther operation of all and every act or acts of Assembly concerning escheats and forfeitures from British subjects, ought to be prevented."[1]

This spirited, but just, action, carried by Mr. Henry against the combined influence of both Mr. Madison and Colonel Lee, is treated by the biographer of Mr. Madison as an unwarrantable interference by the State with the exclusive province of Congress. It expressly disclaimed any such interference, and placed the State under the direction of Congress. But it most properly called the attention of Congress to the infraction by the British government, which while claiming the right to subject the property of Virginians to the payment of British debts, was withholding from Virginians the property justly belonging to them. The British Ministry, glad of a pretext for a course already determined on, made this action of the Virginia Legislature an excuse for retaining the posts along the lakes. When the Legislature met in October, they learned of the detention of the posts and of the pretext made of the action of the preceding session. The matter was brought up by a motion to reconsider that action after Mr. Henry was made Governor. Mr. Madison, in his letter to Mr. Jefferson of January 9, 1785, says of it:

"Though no answer had been received from Congress to the resolutions passed at the last ses-

[1] Journal, 74.

sion, a material change had evidently taken place in the mind of the Assembly, proceeding in part from a more dispassionate view of the question, and in part from the intervening exchange of the ratifications of the treaty. Mr. Henry was out of the way. His previous conversation, I have been told, favored the reconsideration;[1] the speaker, the other champion at the last session against the treaty, was at least half a proselyte."

The bill brought in provided for the payment of British debts in seven annual instalments, deducting the interest accrued between April 19, 1775, and March 3, 1783, the war period. It passed both Houses, but on the last three days of the session, during which it should have been returned to the House from the Senate, a freeze in James River prevented some of the members, boarding in Manchester, from attending and making a quorum for business, and so the measure failed. The matter thus left unsettled was destined to give much trouble thereafter.

Mr. Jefferson made Mr. Madison the mouthpiece in the Assembly of his views of the State Constitution, given in his "Notes on Virginia," which book he had not as yet had the courage to publish in Virginia.[2] At his instance Mr. Madison proposed the call of a convention to form and give force to a constitution, on the ground that what was then called the Constitution of the State was not only defective, but was not of greater force than an ordinary act of legislation, the convention adopting it having no power to give it the force

[1] See also Mr. Henry's letter to R. H. Lee of January 9, 1785.

[2] Randall's Jefferson, i., 413.

of a constitution. He had counted on the assistance of Colonel Lee to enable him to cope with Mr. Henry, whose opposition was known. The result is given in his letter to Mr. Jefferson, July 3, 1784, in which he says, "Unluckily, Mr. Lee was obliged by sickness to leave us the day before the question came on in committee of the whole; and Mr. Henry showed a more violent opposition than we expected. The consequence was that after two days debate the report was negatived; and the majority, not content with stopping the measure at present, availed themselves of their strength to put a supposed bar on the journal against a future possibility of carrying it."

This consisted of a declaration that the Constitution was in force as the supreme law of the land, and that it was the duty of the Legislature, "at all times and on all occasions, to preserve the same inviolate, until a majority of all the free people of the commonwealth shall direct a reform thereof." In consequence of this determination the Constitution was enforced by every department of government for forty-five years, when it was revised by a convention of the State. Concerning it the biographer of Mr. Madison felt constrained to write:

"The commonwealth, under its auspices, enjoyed a reign of public virtue and of practical and well-ordered freedom which, in spite of theoretical criticisms, future times will look back to with gratitude and respect, if not with envy and regret."[1]

Another and most important step was taken in the correspondence with Maryland. On June 28,

[1] Rives's Madison, i., 559.

1784, it was resolved, on motion of Mr. Madison, to appoint George Mason, Edmund Randolph, James Madison, Jr., and Alexander Henderson commissioners to meet others from Maryland, "and in concert with them frame such liberal and equitable regulations concerning the said river (Potomac) as may be mutually advantageous to the two States."[1] The commission met March 28, 1785, at Mount Vernon, and having framed proper regulations, advised the two States to adopt uniformity in duties, commercial regulations, and currency.[2] Maryland, in adopting the regulations proposed, suggested that commissioners should be invited from all the States to meet and regulate the restrictions on commerce for the whole.[3] On January 21, 1786, the Virginia Legislature responded in a resolution offered by Judge Tyler, inviting all the States to appoint commissioners to digest and report the requisite augmentation of the powers of Congress over trade.[4]

In the universal tribute of admiration and gratitude to Washington, which went up from every part of the land upon the conclusion of the Revolution, Virginia was not wanting in doing honor to her great son. On June 21, 1784, a committee of the House, of which Mr. Ronald was chairman and Mr. Henry one of the members, after consultation with a committee of the Senate, reported an address to General Washington every way worthy of the body, and of the eminent character to which it was addressed; and at the same time recommended that "the Executive be requested to take measures for procuring a statue of General Washington, to be of

[1] Journal, 84. [2] Rives's Madison, ii., 58.
[3] Bancroft's History of the Constitution, i., 252. [4] Idem, 253.

the finest marble and best workmanship."[1] The report was enthusiastically adopted. At the fall session, Washington, who had turned his attention to the internal improvements of his State after resigning his commission, visited Richmond to impress his views upon the Legislature. Upon his arrival Mr. Henry moved in the House the following resolution:

"The House being informed of the arrival of General Washington in this city, *Resolved*, *nemine contradicente*, That as a mark of their reverence for his character and affection of his person, a committee of five members be appointed to wait upon him, with the respectful regards of this House, to express to him the satisfaction they feel in the opportunity afforded by his presence, of offering this tribute to his merits, and to assure him that, as they not only retain the most lasting impressions of the transcendent services rendered in his late public character, but have, since his return to private life, experienced proofs that no change of situation can turn his thoughts from the welfare of his country, so his happiness can never cease to be an object of their most devout wishes and fervent supplications."[2]

The committee appointed to present this consisted of Messrs. Henry, Jones, of King George, Madison, Carter Henry Harrison, and Carrington On the next day it reported through Mr. Henry the following reply:

"GENTLEMEN: My sensibility is deeply affected by this distinguished mark of the affectionate re-

[1] Journal, 73. [2] Idem, 24, November 15, 1784.

gard of your honorable House. I lament, upon this occasion, the want of those powers which would enable me to do justice to my feelings, and shall rely upon your indulgent report to supply the defect; at the same time, I pray you to present for me the strongest assurance of unalterable affection and gratitude for this last pleasing and flattering attention of my country."

Two days later, upon the arrival of General Lafayette in the capital, Mr. Henry moved the following resolution:

"This House being informed of the arrival this morning of the Marquis de La Fayette in this city: *Resolved, nemine contradicente*, That a Committee of five members be appointed to present to him the affectionate respects of this House, to signify to him their sensibility to the pleasing proof given by this visit to the United States, and to this State in particular, that the benevolent and honorable sentiments which originally prompted him to embark in the hazardous fortunes of America, still render the prosperity of its affairs an object of his attention and regard; and to assure him that they cannot review the scenes of blood and danger, through which we have arrived at the blessings of peace, without being touched in the most lively manner with the recollection, not only of the invaluable services for which the United States at large are so much indebted to him, but of that conspicuous display of cool intrepidity and wise conduct during his command in the campaign of 1781, which, by having so essentially served this State, in particular, have given him so just a title to its particular acknowledgments; that, impressed as they thus are, with the distinguished lustre of his character, they cannot form a wish more suitable than that the lesson it

affords may inspire all those whose noble minds may emulate his glory, to pursue it by means equally auspicious to the interest of humanity." [1]

A committee, consisting of Messrs. Henry, Madison, Jones, of King George, Matthews, and Brent, presented this address, and on the next day the Journal shows the following reply, reported by Mr. Henry:

"Gentlemen, with the most respectful thanks to your honorable house, permit me to acknowledge not only the flattering favor they now are pleased to confer, but also the constant partiality and unbounded confidence of this State, which, in trying times, I have so happily experienced. Through the continent, gentlemen, it is most pleasing for me to join with my friends in mutual congratulations; and I need not add what my sentiments must be in Virginia, where, step by step, have I so keenly felt for her distress—so eagerly enjoyed her recovery. Our armed force was obliged to retreat, but your patriotic hearts stood unshaken; and while, either at that period, or in our better hours, my obligations to you are numberless, I am happy in this opportunity to observe, that the excellent services of your militia were continued with unparalleled steadiness. Impressed with the necessity of Federal union, I was the more pleased in the command of an army so peculiarly Federal, as Virginia herself freely bled in defence of her sister states.

"In my wishes to this commonwealth, gentlemen, I will persevere with the same zeal that once, and forever, has devoted me to her: May her fertile soil rapidly increase her wealth; may all the waters which so luxuriantly flow within her limits, be happy

[1] Journal for November 17, 1784.

channels of the most extensive trade; and may she, in her wisdom, and the enjoyment of prosperity, continue to give the world unquestionable proofs of her philanthropy, and her regard to the liberties of all mankind.

"LA FAYETTE."

The visits of these distinguished guests continued for a week, in which every mark of respect and admiration was bestowed upon them.

Washington had no difficulty in enlisting the Legislature in his magnificent scheme of improving the navigation of the Potomac and James Rivers, and connecting them by graded roads with the waters flowing into the Ohio. Companies were chartered for the improvement of the two great water-courses of Virginia, and the Maryland Legislature was enlisted, by a visit of Washington himself, in the scheme, which contemplated the passage over a part of her territory.[1]

Great as was the influence of Washington, it had signally failed to secure a provision for Thomas Paine from the Virginia Legislature. On June 12, 1784, he had written to Mr. Madison, urging the great merit and effect of "Common Sense," and the extreme poverty of Paine, as reasons why the Legislature should make some suitable provision for him. Mr. Madison seems to have requested Mr. Henry to introduce a bill granting him a tract on the eastern shore, a moiety of what was known as "the secretary's land;" some one moved to embrace the whole tract in the grant, its value being £4,000. In this form the bill was reported by Mr. Henry and

[1] Rives's Madison, i., ch. xx.

passed through two readings. Before it reached its third reading, however, a letter from Arthur Lee called attention to the fact that Paine was the author of the publication styled, "Public Good," which violently attacked Virginia's title to the North-western territory; and that he was reported to have written it under a promise from the land companies to receive, in case of their success, 12,000 acres. This caused Mr. Henry, doubtless, to drop the bill, as it was defeated notwithstanding Mr. Madison continued to advocate it.[1] The subsequent career of Paine fully justified this resentment of the subservient use of his pen.

Most interesting reminiscences of Mr. Henry have been preserved by several of the members who served with him during these important sessions. Some from the pens of Judge Tyler and Judge Stuart have been already given. Judge Spencer Roane, who now for the first time met him, wrote as follows to Mr. Wirt:

"Although I was personally unacquainted with Mr. Henry until 1783, I was no stranger to his character before that time. A volunteer at the age of thirteen, armed with a short carbine and tomahawk, and clothed in a hunting-shirt with the words, 'Liberty or Death,' engraved in capitals over my left breast, I could not be indifferent to the character of that man who electrified the American public by his eloquence in council, and roused them to resistance at a critical time by taking the field. I had even before this formed a high opinion of this

[1] See Madison to Washington, July 24, 1784, Madison's Works, i., 85. The reported remuneration for writing Public Good is found in the Lee papers, at the University of Virginia.

man's eloquence, talents, and patriotism. My father, a burgess for Essex from 1768 to the Revolution, and once or twice during the war, always came home in raptures with the man. That a plain man, of ordinary though respected family, should beard the aristocracy, by whom we were then cursed and ruled, and overthrow them in the cause of independence, was grateful to a man of my father's whig principles. He considered Henry as the organ of the great body of the people; as the instrument by whom the big-wigs were to be thrown down, and liberty and independence established. It is among the first things I can remember, that my father paid the expenses of a Scotch tutor, residing in his family, named Bradfute, a man of learning, to go with him to Williamsburg to hear Patrick Henry speak, and that he laughed at Bradfute on his return for having been so much enchanted by his eloquence as to have unconsciously spirted tobacco juice from the gallery on the heads of the members, and to have nearly fallen from the gallery into the House. At a subsequent time, too, my father carried another tutor and myself, when not ten years old, to Williamsburg, on purpose to hear Patrick Henry speak, but no occasion brought him out before the vacation had expired and we returned home. . . . With these impressions I met Patrick Henry in the Assembly in May, 1783. I also then met with Richard Henry Lee. I lodged with Lee one or two sessions, and was perfectly acquainted with him, while I was as yet a stranger to Mr. Henry. These two gentlemen were the great leaders in the House of Delegates, and were almost constantly opposed. Notwithstanding my habits of intimacy with Mr. Lee, I found myself obliged to vote with Patrick Henry against him in 1783, and against Madison in 1784 (in which year I think R. H. Lee was sent to Congress), but with several im-

portant exceptions. I voted against him (P. H.), I recollect, on the subject of the refugees, he was for permitting their return; on the subject of a general assessment and the act of incorporating the Episcopal church. I voted with him in general, because he was, as I thought, a more practical statesman than Madison (time has made Madison more practical), and a less selfish one than Lee. As an orator, Mr. Henry demolished Madison with as much ease as Sampson did the cords that bound him before he was shorn:—Mr. Lee held a greater competition.—There were many other great men in the House, but as orators they cannot be named with Henry or Lee. Mr. Lee was a polished gentleman. His person was not very good and he had lost the use of one of his hands, but his manner was perfectly graceful. His language was always chaste, and although somewhat too monotonous, his speeches were always pleasing; yet he did not ravish your senses nor carry away your judgment by storm. His was of the mediate class of eloquence described by Rollin in his Belle Lettres. He was like a beautiful river meandering through a flowery mead, but which never overflowed its banks. It was Henry who was the mountain torrent that swept away everything before it. It was he alone who thundered and lightened. He alone attained that sublime species of eloquence also mentioned by Rollin. It has been one of the greatest pleasures of my life to hear these two great masters, almost constantly opposed to each other, for several sessions. I had no relish for any other speaker. Henry was almost always victorious. He was as much superior to Lee in temper as in eloquence, for while the former would often apologize to the House for being so often obliged to differ from the latter, which he assured them was from no want of respect for him, I once heard Mr. Lee say in a pet, after sustaining

a great defeat, that if the votes were weighed instead of being counted, he would not have lost it.

"Mr. Henry was inferior to Mr. Lee in the gracefulness of his action, and perhaps also the chasteness of his language: yet his language was seldom incorrect, and his address always striking. He had a fine blue eye and an earnest manner which made it impossible not to attend to him. His speaking was unequal, and always rose with the subject and the exigency. In this respect he entirely differed from Mr. Lee, who was always equal: at some times Mr. Henry would seem to hobble (especially in the beginning of his speeches) and at others his tones would be almost disagreeable; yet it was by means of his tones and the happy modulation of his voice, that his speaking had, perhaps, its greatest effect. He had a happy articulation, and a clear, distinct, strong voice, and every syllable was distinctly uttered. He was very unassuming as to himself, amounting almost to humility, and very respectful towards his competitor; the consequence was that no feeling of disgust or animosity was arrayed against him. His exordiums in particular were often hobbling, and always unassuming. He knew mankind too well to promise much. They were of the "*manin aide*" cast (of Homer) rather than of the "*fortunam Priami*" of some author whose name is forgotten. He was great at a reply, and greater in proportion to the pressure which was bearing upon him. The resources of his mind and of his eloquence were equal to any drafts which could be made upon them. He took but short notes of what fell from his adversaries, and disliked the drudgery of composition, yet it is a mistake to say that he could not write well. Many of his public letters prove the contrary. I do not know that he ever wrote anything for the press."[1]

[1] MS.

In illustrating the kindly disposition of Mr. Henry, Judge Roane says in the same letter:

"There was one trait in Mr. Henry, flowing from his good disposition and his magnanimity, which did him great credit, and is universally admitted. He was extremely kind to young men in debate, & ever ready to compliment even his adversaries, where it was merited,—of the latter class his high eulogium upon Col. Innes's eloquence, in the Virginia convention, will be recollected,—of the former class the instances were innumerable. I will mention one which occurred in my own case. In the Spring of the year 83 several of the most respectable of my constituents of the county of Essex tarred & feathered one Jas. Williamson. He had been a merchant in Tappahanock, had gone to the British, & endeavored to bring up tenders to burn the town during the war, & after the peace had returned to Tapp[a], where he was countenanced by some of the inhabitants. This gave such umbrage that he was pursued, caught & tarred & feathered by the principal men of Essex. They were prosecuted for this misdemeanor in the general court. While the prosecution was still pending, these citizens sent a petition to me in the Spring, 84, praying the assembly to arrest the prosecution. I presented the petition, & got a law of indemnity in some progress, taking care to state, as the fact was, that the act was committed before the definitive treaty was signed, which was some alleviation of their conduct. Mr. Henry took me out one day & said, that he admired the Whig spirit which actuated me, but that the intervention of the Legislature could not be justified. I told him that the transaction was irregular, but that the provocation was great, & the act done in some sense, *flagrante bello*. He persisted in his opinion; and I maintained my ground, intimated that I

hoped he would not oppose me, but that if he did I must nevertheless proceed. He left me, and did not oppose me, which I ascribe to the trait now in question, and the act of indemnity passed. This is one small instance, but a thousand others might be mentioned."

We have also a description of Mr. Henry's person at this period, from the same interesting pen. Says Judge Roane:

"Mr. Henry was a man of middling stature. He was rather stoop-shouldered (after I knew him), probably the effect of age. He had no superfluous flesh; his features were distinctly marked, and his complexion rather dark. He was somewhat bald, and always wore a wig in public. He was not a handsome man, but his countenance was agreeable and full of intelligence and interest. He had a fine blue eye, and an excellent set of teeth, which with the aid of a mouth sufficiently wide, enabled him to articulate very distinctly. His voice was strong, harmonious, and clear, and he could modulate it at pleasure."[1]

The color of his eyes was described by his daughter, Sarah, as follows: "Go out on a perfectly cloudless day, and look up at the sky, and you will have an exact idea of the color of his eyes."[2]

The following characteristic anecdote was related by Mr. Madison, then President, at the conclusion of the war of 1812, to a party of gentlemen assembled at his residence in Washington.

"In the Revolutionary War certificates were given by the legislature to the Virginia line on Continen-

[1] MS. Letter to Mr. Wirt. [2] Conversation with the Author.

tal establishment, stating the amount due them, which was to be paid at a future time. The necessities of the soldiers, in many instances, compelled them to part with the certificates to speculators for a trivial sum. Mr. Madison brought a bill before the legislature to put a stop to it. He previously asked Mr. Henry if he was willing to support it. The reply was 'yes,' but having no further communication with him on the subject, Mr. Madison feared he had forgotten the circumstance. After the bill was read, he turned to where Mr. Henry sat, with an anxious eye, upon which the latter arose and addressed the house. Mr. Madison said that upon that occasion he was particularly eloquent. His voice reminded him of a trumpeter on the field of battle calling the troops to a charge. He looked alternately to the house and audience, and saw they were with the orator; and at the conclusion, one of the chief speculators in tickets, then in the galleries, exclaimed in an audible voice—'That bill ought to pass!' It did pass, and unanimously."[1]

Another incident of this period which has been preserved, exhibits in a pleasing manner the cordial hospitality of the Virginians, and the kindliness of disposition of Mr. Henry, together with his penetration into the character of others, even upon short acquaintance. A Frenchman named M. Savary de Valcoulon, having a claim against Virginia, visited Richmond in the winter of 1783, bringing with him a young Swiss of education and talents, whose worth was at once recognized. Many years afterward he gave the following account of his reception:

"I have been treated with kindness in every part of the United States where I have resided. But it

[1] Howe's Virginia Historical Collections, 222.

was at Richmond, where I spent most of the winters between the years 1783 and 1789, that I was received with that old proverbial Virginia hospitality, to which I know no parallel anywhere within the circle of my travels. It was not hospitality only that was shown to me. I do not know how it came to pass, but everyone with whom I became acquainted appeared to take an interest in the young stranger. I was only the interpreter of a gentleman, the agent of a foreign house that had a large claim for advances to the State; and this made me known to all the officers of government and some of the most prominent members of the Legislature. It gave me the first opportunity of showing some symptoms of talent, even as a speaker, of which I was not myself aware. Everyone encouraged me and was disposed to promote my success in life. To name all those from whom I received offers of service, would be to name all the most distinguished residents at that time at Richmond. I will only mention two: John Marshall, who, though but a young lawyer in 1783, was almost at the head of the bar in 1786, offered to take me into his office without a fee, and assured me that I would become a distinguished lawyer. Patrick Henry advised me to go West, where I might study law if I chose: but predicted that I was intended for a statesman, and told me that this was the career which should be my aim; he also rendered me several services on more than one occasion." [1]

The young Swiss followed Mr. Henry's advice, and went to Southwest Pennsylvania with a letter of introduction from him in his pocket, and an important commission from him to execute.[2] He soon rose to distinction, was the leader of the Republi-

[1] Adams's Life of Gallatin, 54. [2] Idem, 59-60.

can party in Congress from 1795 to 1801, during a part of which time he was opposed to John Marshall as the leader of the Federal party, and was afterward the distinguished Secretary of the Treasury under Jefferson. It thus happened that Mr. Henry was instrumental in securing to the United States the great services of the celebrated Albert Gallatin.

The penetration for which Mr. Henry was celebrated is thus spoken of by Judge Roane:

"Mr. Henry was remarkably well acquainted with mankind. He knew well all the springs and motives of human action. This faculty arose from mingling freely with mankind and from a keen and constant observation. From this faculty and his great command of temper, he would have made a great negotiator. The advantage of Mr. Henry's education consisted in this, that it arose from some reading which he never forgot, and much observation and reflection. He read good books as it were for a text, and filled up the picture by an acute and penetrating observation and reflection, and by mingling in the society of men. He had practised law in the county courts; a school remarkably well adapted to acquaint a person with mankind in general."[1]

[1] MS. Letter to Mr. Wirt.

CHAPTER XXXIII.

GOVERNOR OF THE STATE.—FOURTH TERM.—1784–5.

Unanimous Re-election of Mr. Henry as Governor.—Removal of His Family to Chesterfield County.—Death of His Mother.—Her Exalted Christian Character.—Death of His Brother and Aunt.—Style of Living as Governor.—Renewed Correspondence with Richard Henry Lee.—Correspondence with Washington in Reference to the Stock Voted Him by the Legislature.—Causes the Marbles of Washington and Lafayette Ordered by the Legislature to be Executed by Houdon.—Grateful Feelings of Lafayette.—Lewis Littlepage.—His Remarkable Career.—Purchase in France, by the Governor, of Arms for the State.—Visit of John Fitch.—Proposed Steamboat Navigation.—Governor Henry Grants Conditional Pardons, and Gives Birth to the Penitentiary System.—Letter from the Countess of Huntingdon.—Her Plan for Civilizing the Indians.—Approval by Governor Henry and General Washington.—Its Failure in Congress.—The State of Franklin.—Movement to Divide Virginia Headed by Colonel Arthur Campbell.—Wise Course of Governor Henry.—Able and Patriotic Letter in Reference to the State of Franklin.—The Scheme Abandoned.

On November 17, 1784, Mr. Henry was elected Governor of the State, to succeed Benjamin Harrison, "without competition or opposition."[1] His term commenced the 30th of the month. On the 22d, Mr. Jones, of King George, from the committee to notify him of his appointment, reported the following answer:

"Gentlemen, I beg the favor of you to make my acknowledgments to the General Assembly, and to assure them that I shall ever retain a just sense of

[1] Madison to Jefferson, January 9, 1785. Madison's Works, i., 134.

the honor now conferred upon me. It shall be my constant endeavor to discharge the duty of the high office to which I am called, so as to promote the happiness of the commonwealth. And I have to hope that my intentions may be favorably interpreted, and my deficiencies supplied by the wisdom of the General Assembly." [1]

This election again to the office of Governor was a striking testimony to the admiration and love with which he was regarded in his State. By the Constitution he was rendered incapable of re-election for three years after serving three consecutive terms. Mr. Jefferson and General Nelson had both ceased to be Governor, and Benjamin Harrison had been elected, before the end of this three years of disability. As the terms were but a year and the incumbent might serve three in succession, it came to be considered a mark of disapprobation not to continue him for three years, and Mr. Henry would not have consented to the use of his name so long as Governor Harrison was eligible. But so soon as it could be done without a slight upon that worthy statesman and patriot, we find the Legislature, by a unanimous vote, calling Mr. Henry again to the chair he had so ably filled during the trying days of the war.

A few days after his election, Governor Henry left Richmond in order to arrange his affairs in Henry County, and remove his family to a farm in Chesterfield County, near Richmond, called "Salisbury."

Before he left the capital he received the sad intelligence of the death of his mother at the home of

[1] Journal, 33.

Colonel Meredith, in Amherst County. A letter from his sister gave him the first tidings, and this was followed by one from Colonel Meredith, which contains the following tribute to the noble woman to whom Governor Henry owed so much of his talents and admirable character.

"Her illness was constant for the last six or seven months of her life, her greatest complaint was a most inveterate cough, which occasioned her great uneasiness in her breast. She sought and wished for ease, but it never appeared to me that she was desirous that a single moment might be added to the time appointed for her. But none who was acquainted with her life and conversation need wonder at her great resignation to whatever might be the Divine will. She has been in my family upwards of eleven years, and from the beginning to the end of that time, it most evidently appeared to me that it was one continued scene of piety and devotion, guided by such a great share of good sense as rendered her amiable and agreeable to all who were so happy as to be acquainted with her. Never did I know a Christian character equal to hers. Oh, that her example may ever be imitated by me and my family, to whom she was always a monitor and true guide, both as to spiritual and temporal happiness. Her removal to the world of spirits ought by no means to occasion grief to her near and dear connections, as they certainly must rest assured, that she is not only received into the Heavenly mansions, but very highly exalted there, having gained to the five talents committed to her carefully other five. What an honor is it to all those that claim their descent from such a person. May they all be enabled to follow her blessed example."[1]

[1] MS.

By the will of Mrs. Henry, enclosed by Colonel Meredith, it appears that on March 12, 1784, its date, there were living of her children, John Syme, William Henry, Patrick Henry, Jane Henry Meredith, Lucy Wood, Annie Christian, Susanna Madison, and Elizabeth Russell, formerly the wife of Colonel William Campbell. She gives legacies to these, as well as to two of her grandchildren, Elizabeth Henry, daughter of Patrick Henry, and Charles Henry Campbell, son of Mrs. Elizabeth Russell.[1]

But the death of his mother was not to be the only affliction under which Governor Henry resumed the executive office, as the following sad letter to Judge Bartholomew Dandridge will show.

"DEAR SIR: The enclosed, while it will give you trouble, may give us the pleasure of seeing you. I heartily lament with you the death of Mr. Burbidge, so far as it is rational to lament the exchange of a bad world for one where sorrow never enters. This particular time is remarkable for the deaths of my near connections. My dear and ever honored mother died six or eight weeks ago, my brother William two weeks, and my only surviving aunt ten days. Thus is the last generation clearing the way for us, as we must shortly do for the next. My wife's best wishes are joined with mine for you all. Adieu, dear sir, "P. HENRY.

"January 21, 1785.

"Your son John is well."

This letter, in which sadness and Christian hope are so beautifully mingled, was addressed to the

[1] Her will followed the old custom in directing mourning rings for her children.

brother of Mrs. Washington, and cousin of Mrs. Henry, and to a warm personal friend, with whom Governor Henry had been for years associated in the Legislature and Executive Council.

Its warning was prophetic. Within three months from the time it was received both Judge Dandridge and his mother were dead.[1]

Judge Roane, who was a member of the Council, has left an account of Governor Henry's mode of life during the term on which he was now entering. He mentions the carefulness with which he dressed whenever he appeared in public, as had been his custom during his first terms, and adds:

"With respect to his family, they were furnished with an excellent coach (at a time when these vehicles were not so common as at present);[2] they lived as genteelly, and associated with as polished society as those of any governor before or since have ever done. He entertained as much company as others, and in as genteel a style, and when at the end of two years he resigned the office he had greatly exceeded the salary, and was in debt, which was one cause that induced him to resume the practice of the law."

Judge Roane also bears testimony to the uniform courtesy and good temper with which he presided at the Council board.

A passage in a letter from John Marshall to James Monroe, December 2, 1784, bears testimony to the controlling influence of Governor Henry as a member of the Assembly, by the statement in reference

[1] See letter of General Washington to William Grayson, April 25, 1785. Writings of Washington, ix., 270.

[2] The year 1814.

to his election as Governor, that "he is about moving in a sphere of less real importance and power."[1] But while the Executive might be of less importance than the Legislative branch of the Government, it was not because the term of Governor Henry was to be devoid of most interesting and important incidents.

On his return from Henry County he found a letter from Richard Henry Lee, now the President of Congress, dated at Trenton, December 8, 1784, indicating that nothing remained in his breast of the irritation caused by legislative conflicts, if indeed any of consequence was ever excited. Colonel Lee wrote, "We are placed now I think pretty nearly in the same political relation under which our former correspondence was conducted; if it shall prove as agreeable to you to renew it, as you were then pleased to say it was to continue it, I shall be happy to contribute my part." To this Governor Henry responded January 9, 1785, sending his letter by Colonel William Grayson as the first safe conveyance. He said, "The revolution of affairs has, as you observe, placed us nearly in the same situation which we held during the early part of the late war. Give me leave to add, my hearty wishes are, that the same friendly intercourse from which I then received so great a pleasure, and my country so much advantageous information, may again take place, and receive no interruption." To this Colonel Lee replied on February 14, in a long letter giving much information as to the political affairs of the Union, mingled with his own able views concerning them. It is most unfortunate

[1] Bancroft's History of the Constitution, i., 399.

that but little of this renewed correspondence has been preserved. But the passages quoted disprove the allegation of enmity at this period between these former friends, and there can be no doubt that they afterward agreed very closely on political questions, and lived on terms of the warmest friendship.

A correspondence soon followed also with General Washington, which indicated the confidence placed in Governor Henry by him who was now recognized as the foremost man living. On January 5, the Assembly, by a unanimous vote, vested in General Washington fifty shares in the Potomac Company, and one hundred shares in the James River Company, which had been chartered for the internal improvement of the State according to the plan urged by him, and with the design of binding the Western territory to the East. Governor Henry communicated the act to him officially on February 5, 1785, and received the following reply:

"DEAR SIR: I have had the honor to receive your Excellency's letter of the 5th, enclosing the Act of the Legislature for vesting in me and my heirs, fifty shares in the navigation of each of the rivers Potomac & James. For your trouble & attention in forwarding the Act, you will please to accept my thanks; whilst to the Assembly for passing it, these with all my gratitude are due. I shall ever consider this act as an unequivocal, & substantial testimony of the approving voice of my country, for the part I have acted on the Am^{a} theatre, & shall feast upon the recollection of it as often as it occurs to me: but this is all I can, or mean to do. It was my first declaration in Congress after accepting my military appointment, that I would not receive anything for such services as I might be able

to render the cause in which I had embarked. It was my fixed determination when I surrendered that appointment, never to hold any other office under Government, by which emolument might become a necessary appendage; or, in other words, which should withdraw me from the necessary attention which my own private concerns indispensably required: Nor to accept of any pecuniary acknowledgment, for what had passed—from this resolution, my mind has never yet swerved. The Act therefore, which your Excellency enclosed, is embarrassing to me. On the one hand I should be unhappy if my non-acceptance of the shares should be considered as a slight of the favor (the magnitude of which, I think very highly of) or disrespectful to the generous intention of my country. On the other I should be equally hurt if motives of pride, or an ostentatious display of disinterestedness should be ascribed to the action. None of these have existence in my breast; & none of them would I have imputed to me, whilst I am indulging the bent of my inclination by acting independent of rewards for occasional & accidental services. Besides, may not the plans be affected, unless some expedient can be hit upon to avoid the shock which may be sustained by withdrawing so many shares from them?

"Under these circumstances, & with this knowledge of my wishes & intention, I would thank your Excellency for your frank & full opinion of this matter, in a friendly way, as this letter to you is written, & I hope will be considered.

"I am &c. &c.,

"G. WASHINGTON.

"MT. VERNON, 27th Feby, 1785.
"TO GOVERNOR HENRY."

On getting this Governor Henry wrote March 12, excusing himself from a full reply at the time, be-

cause of the extreme illness of his oldest grandson, "a fine boy about nine years old."

On March 19, he replied at length in the following letter:

"RICHMOND, March 19, 1785.

"DEAR SIR: The honor you are pleased to do me in your favor of the 27th ultimo, desiring my opinion, in a friendly way, on the subject of the Act for vesting the shares in the Potomac and James River navigation, is very flattering to me, and I should ill deserve the confidence you are pleased to place in me, if I should forbear to give you my unreserved sentiments on it. I will freely own to you, that I am embarrassed to reconcile the law, taken in its full extent, with the declarations you mention, and a fixed purpose of refusing pecuniary rewards. If this was the sole object of the act, I should not hesitate to dissent to its propriety. The United States seem most properly constituted to take into consideration a matter of that nature, for a variety of reasons, which I need not enumerate. But the preamble of the law, compared with a few facts that preceded the enacting of it, will present it in a view different from that of rewarding past military services. The facts I allude to are these.

"The great business of opening the navigation of Potomac and James Rivers, and connecting it with that of the western waters, was taken up by you, and pressed with that earnestness so interesting a matter deserved. The difficulties, which nature had interposed, were increased by a combination of interest, hard to develop and explain, and still harder to reconcile. To all these was added another impediment arising from the scarcity of money, and the exhausted condition of the country. The time however was critical, and your observations, sent to the Assembly, proved that it was a good policy to encounter every obstacle, and begin work. The

patronage of it seemed naturally to devolve on you, Sir; and the Assembly, desiring to give efficacy to that patronage, vested the shares in you.

"This navigation depends upon private subscription for success, so that, unless you had subscribed, you could not have been concerned. You will forgive me for supposing that your finances could not have made it desirable to risk a sum of money on the success of an enterprise like this. For your estate could not have been exempted from that loss in its produce, experienced by other gentlemen's estates throughout the country during the war. Considering then that your promoting this great affair necessarily obliged you to subscribe to it, and besides, to encounter all the difficulties arising from the nature of it, the variety of interests, views, and circumstances, which attended it, and that, in arranging and conducting all these, not only great labor and attention as well as abilities are requisite, but also expence of money and loss of time,—it would seem at least that you ought to be secured against the chance of losing by subscribing. And this is all the law can be said to do, inasmuch as it must remain uncertain whether the shares are worth anything, till the business is compleated. If this never happens to be accomplished, your labor, time, &c., are lost, and the donation proves an empty sound. Your acceptance of it will prevent that shock which you justly observe will be given by a refusal; and I submit to your reflection, how far your resignation of the shares may throw a damp on that ardor which I have the pleasure to hear prevails at present to promote the undertaking. I must believe that at least a temporary check would be given to its progress, till the means of replacing so many shares could be found; and I am really not able to find out the way to do it. Your acceptance will avoid this embarrassing circumstance,

and if, after reviewing the whole matter, you shall think it inadmissible to hold shares in the manner the law gives them, you will be at liberty to make such alterations in the interests or disposition of the use, as shall be most agreeable to yourself.

"If I have exceeded in the freedom with which I have treated this subject, I must entreat your forgiveness; for I have no motive but to evince, on every occasion, that I am, with unalterable affection and the most sincere attachment,

"Dear Sir, your very obedient servant,

"PATRICK HENRY.

"His Excellency, GEORGE WASHINGTON,
"*Mount Vernon.*

"P. S.—Two other large packets from Ireland accompany this. The post could not carry them all at once. No other conveyance seems to present soon, and the Captain (Boyle) begs to receive your commands as soon as convenient."

General Washington had made up his mind to refuse the gift, and the difficulty with him was, how to refuse without giving offence.[1] He caught at the suggestion of Governor Henry, and determined to ask the Assembly to permit him to indicate the disposition of it most agreeable to himself. He therefore wrote to the Governor, upon the assembling of the Legislature in the fall, the following letter:

"MOUNT VERNON, 29 October, 1785.

"SIR: Your Excellency having been pleased to transmit to me a copy of the act appropriating for my benefit certain shares in the companies for opening the navigation of James and Potomac Rivers, I

[1] Washington to Jefferson, September 26, 1785; Writings of Washington, ix., 133.

take the liberty of returning to the General Assembly, through your hands, the profound and grateful acknowledgements inspired by so signal a mark of their beneficent intentions towards me. I beg you, Sir, to assure them, that I am filled on this occasion with every sentiment which can flow from a heart warm with love for my country, sensible to every token of its approbation and affection, and solicitous to testify in every instance a respectful submission to its wishes.

"With these sentiments in my bosom, I need not dwell on the anxiety I feel in being obliged in this instance to decline a favor, which is rendered no less flattering by the manner in which it is conveyed, than it is affectionate in itself. In explaining this observation I pass over a comparison of my endeavours in the public service with the many honorable testimonies of approbation, which have already so far overrated and overpaid them; reciting one consideration only, which supersedes the necessity of recurring to any other.

"When I was first called to the station, with which I was honored during the late conflict for our liberties, to the diffidence which I had so many reasons to feel in accepting it, I thought it my duty to join a firm resolution to shut my hand against every pecuniary recompense. To this resolution I have invariably adhered, and from it, if I had the inclination, I do not feel at liberty now to depart.

"While I repeat, therefore, my fervent acknowledgements to the legislature for their very kind sentiments and intention in my favor, and at the same time beg them to be persuaded that a remembrance of this singular proof of their goodness towards me will never cease to cherish returns of the warmest affection and gratitude, I must pray that their act, so far as it has for its object my personal emolument, may not have its effect. But if it

should please the General Assembly to permit me to turn the destination of the fund vested in me from my private emolument, to objects of a public nature, it will be my study in selecting these to prove the sincerity of my gratitude for the honor conferred on me, by preferring such as may appear most subservient to the enlightened and patriotic views of the legislature. With great respect and consideration I have the honor to be, &c.

"GEO. WASHINGTON.

"His Excellency, GOV. HENRY."

This letter was transmitted to the Assembly, and they thereupon passed an act withdrawing the donation, and providing "that the said shares with the tolls and profits hereafter accruing therefrom, shall stand appropriated to such objects of a public nature, in such manner and under such distributions as the said George Washington, by deed during his life, or by his last will and testament, shall direct."

General Washington afterward indicated a National University to be established in the District of Columbia,[1] as the recipient of the shares in the Potomac Company, and Liberty Hall Academy, at Lexington, Va., as the recipient of the shares in the James River Company. The name of this last was thereupon changed to Washington Academy, and it was afterward incorporated as Washington College.

It must have been with peculiar pleasure that Governor Henry found that it devolved on him to carry out the acts of Assembly voting marble statues to Washington and Lafayette.

The Assembly, during its then session, determined to present to the city of Paris the bust of Lafay-

[1] Writings of Washington, xi., 3.

ette at first intended for him, and Governor Henry enclosed the act to the Marquis, with the following letter:

"IN COUNCIL, January 29, 1785.

"SIR: When the duties of office correspond with the feelings of the individual, there is a double pleasure in discharging them. This satisfaction I feel most sensibly, when I forward the enclosed, and am happy in the opportunity of assuring you how perfectly I coincide in opinion with the legislature on this subject.

"That the gratitude of those who claim you as their fellow-citizen may be as conspicuous as the merit it wishes to perpetuate, the Bust which was to have been presented to yourself is now to be erected in the City of Paris, and as we cannot have the happiness of your personal residence, another is to grace our capital, which none will behold with more lively sensations of affection and admiration, than Sir, "Yours, etc.,

"P. HENRY.

"To the Honorable, the MARQUIS DE LA FAYETTE."

The act of the spring session 1784, ordering a marble statue of Washington, had been enclosed by Governor Harrison to Mr. Jefferson at Paris, with a request that he and Dr. Franklin select the artist. After Governor Henry came into office he received the following letter from Mr. Jefferson on the subject.

"PARIS, Jan. 12, 1785.

"SIR: The letter of July 20, 1784, with which your Excellency was pleased to honour me, & which inclosed the resolution of assembly for the statue of Genl. Washington came to my hands on

the 29th of Nov. by Mr. Short: & a few days afterwards I received a duplicate of it, as it was not practicable to get the business into any train before the sailing of the December packet, I omitted acknowleging it's receipt till the packet of this month should sail. There could be no question raised as to the Sculptor who should be employed; the reputation of Monsr. Houdon of this city being unrivalled in Europe. He is resorted to for the statues of most of the sovereigns in Europe. On conversing with him Doctr. Franklin & myself became satisfied, that no statue could be executed so as to obtain the approbation of those to whom the figure of the original is known, but on an actual view by the artist. Of course no statue of Genl. Washington, which might be a true evidence of his figure to posterity, could be made from his picture. Statues are made every day from portraits: but if the person be living, they are always condemned by those who know him for a want of resemblance, and this furnishes a conclusive presumption that similar representations of the dead are equally unfaithful. Monsr. Houdon whose reputation is such as to make it his principal object, was so anxious to be the person who should hand down the figure of the General to future ages, that without hesitating a moment he offered to abandon his business here, to leave the statues of kings unfinished, & to go to America to take the true figure by actual inspection and mensuration. We believe from his character, that he will not propose any very considerable sum for making the journey; probably two or three hundred guineas, as he must necessarily be absent three or four months, & his expences will make at least a hundred guineas of the money. When the whole merit of the piece was to depend on this previous expenditure, we could not doubt your approbation of the measure: and that

you would think with us that things which are just or handsome should never be done by halves. We shall regulate the article of expence as economically as we can with justice to the wishes of the world. This article, together with the habit, attitude, devices &c are now under consideration, & till they be decided on we cannot ultimately contract with Monsr. Houdon. We are agreed in one circumstance, that the size shall be precisely that of the life. Were we to have executed a statue in any other case, we should have preferred making it somewhat larger than the life; because as they are generally a little elevated, they appear smaller, but we think it important that some one monument should be preserved of the true size as well as figure, from which all other countries (and our own at any future day when they shall desire it) may take copies, varying them in their dimensions as may suit the particular situation in which they wish to place them. The duty as well as glory of this preservation we think belongs particularly to Virginia. We are sensible that the eye, alone considered, will not be quite as well satisfied; but connecting the consideration that the whole, & every part of it, presents the true size of the life, we suppose the beholder will receive a greater pleasure on the whole. Should we agree with Monsr. Houdon, he will come over in the April packet, & of course may be expected in Virginia about the last of May. His stay with the general will be about a month. This will be employed in forming his bust of plaster. With this he will return to Paris, & will then be between two & three years in executing the whole in marble. I have thought it my duty to detail to your Excellency our ideas on this subject as far as they are settled, that if in any point we are varying from the wishes of the Executive or legislature, we may be set right in time. I con-

jecture that you will receive this about the latter end of Febuary, and as Monsr. Houdon will not set out till about the 12th or 14th of April there may be time to receive your pleasure in the mean while. We think that the whole expence of the journey & execution of the figure will be within the limits conjectured by your excellency: but of this we cannot be certain as yet. I have the honor to be with sentiments of the highest respect

"Your Excellency's Most obedient
and most humble servt.

"Th: Jefferson.

"To the Governor of Virginia."

Houdon came to America in the ship with Dr. Franklin, and arrived at Mount Vernon October 3, 1785. Remaining a fortnight, he took the measurements of Washington's person and a plaster cast of his bust, and on his return to France he completed in 1788 the noble figure which stands in the rotunda of the Capitol at Richmond, and is as near as possible the exact reproduction of the illustrious original.

Before the artist left France for the United States, he was engaged through Mr. Barclay, the American Consul at Paris, and Mr. Jefferson, to execute the marbles of Lafayette; and a letter from Mr. Jefferson of August 22, informed Governor Henry that a model of his bust in plaster had been taken. On the return of Mr. Houdon he made the marble intended for the city of Paris first, and that was presented to the city on September 28, 1786, and placed in the Hôtel de Ville, with most imposing ceremonies. Mr. Jefferson, who was confined to his room because of a fall, wrote an appropriate letter

of presentation, which was sent by William Short, a former member of the Council of Virginia. The city received the gift through her authorities, who had selected as their spokesman, M. de Corny, *Avocat et Procureur du Roy et de la Ville*, who made a suitable oration. Mr. Jefferson, in transmitting the proceedings to the Executive, wrote:

"I have the honor of enclosing to your Excellency a report of the proceedings on the inauguration of the bust of the Marquis de la Fayette in this city. This has been attended with a considerable delay. The principle that the King is the sole fountain of honour in this country, opposed a barrier to our desires which threatened to be insurmountable. No instance of a similar proposition from a foreign power had occurred in their history. The admitting it in this case is a singular proof of the King's friendly dispositions toward the states of North America, and of his personal esteem for the character of the Marquis de la Fayette."

The Marquis was deeply touched by this evidence of appreciation by Virginia, and was stirred by the thought of being presented to posterity along with the hero of his greatest worship. On October 26, he wrote:

"A new instance of the goodness of the State of Virginia has been given me, by the placing of my bust at the Hôtel de Ville of this city. The situation of the other bust will be the more pleasing to me, as while it places me within the Capitol of the State, I shall be eternally by the side of, and paying an everlasting homage to, the statue of my beloved General."

The desire of Lafayette was gratified when his bust was placed permanently in a niche of the rotunda facing the figure of Washington.

In seeking a hand for the transmission of one of the instalments due M. Houdon for his work, Governor Henry connected with its history one of the most remarkable men of the age. Lewis Littlepage, of Hanover County, had been sent in 1780, when a youth of seventeen, by his guardian to Europe, to complete his education. He was consigned to the care of John Jay, then Minister at Madrid. The youth had a fine manly figure, with a dark, penetrating eye, and a peculiarly striking physiognomy. He was considered a prodigy of genius and acquirements. In the letter of his uncle and guardian, Benjamin Lewis, to Mr. Jay, were enclosed specimens of his poetry at fifteen which indicated his genius in that line. Within a few months after his arrival at Madrid, he left his studies and volunteered to accompany the Duke de Crillon on his expedition against Minorca. He acted as aide to the Duke and greatly distinguished himself. Soon afterward he served in the attack upon Gibraltar, and was blown up on one of the floating batteries used by the Spaniards, but his life was saved. During one of the engagements he stood upon the deck and sketched the battle. Upon his return to Madrid he was received with great distinction by the Court, and resided in Spain after Mr. Jay had left for Paris. In 1784 or 5 he returned to Virginia, and we find a letter of Governor Henry to General Washington, dated October 14, 1785, introducing him and adding: "I have spent some little time in his company very happily, and feel myself interested in his future welfare."

On the return of Littlepage to France soon afterward, Governor Henry entrusted to his care a sum of money for Mr. Jefferson, to be paid to M. Houdon. On reaching New York to embark, Littlepage was arrested at the suit of Mr. Jay for a debt of $1,016, money advanced him while in Europe. It was in vain that he assured his creditor that on the settlement with his guardian he had left the amount in his hands for him. Mr. Jay was implacable, and in order to gain his freedom Littlepage used some of the money entrusted to him, turning over to the State the claim against his guardian. This action of Mr. Jay was resented by a challenge and a bitter newspaper publication, which led to a counter-publication, and a pamphlet containing their entire correspondence in Europe and America. On landing in Europe Littlepage repaired to the court of Poland, where at the age of twenty-four he became first secretary and chamberlain to King Stanislaus. The next year, 1787, he was sent to negotiate a treaty with the Empress of Russia, Catherine II., which he accomplished, and at the same time won the affections of that able sovereign and notorious woman. During the same year he was sent on a secret mission to the court of France, to assist in the attempted quadruple alliance. In 1788 he was sent by Catherine to the army of Prince Potemkin, then engaged in the Turkish war, where he was placed in the command of a division, and served with great distinction. The next year he was sent on a political mission to Madrid, and was afterward recalled to Warsaw to aid in the revolution of 1791. In 1792 he acted as aide-de-camp of the King with the rank of Major-General, and was sent by him the

following year as special envoy to Russia, to prevent the division of Poland. He was not allowed to enter St. Petersburg, nor to interfere with the division of the kingdom. He was engaged in the revolution in 1794, headed by Kosciusko and Madalinski, and was at the defeat of Poniatowski by the Russians, and at the storming of Prague. For the part taken in this revolution the Empress Catherine never forgave him, and when Stanislaus was taken in 1795, she ordered Littlepage to be separated from him, and only spared his life because of his former brilliant services under Potemkin in the Turkish war. Attempting to reside at Vienna, he was ordered away by the Ministry, and found an asylum at Warsaw by permission of the King of Prussia, then its ruler. Upon the death of Catherine, her son, who became her successor, paid him the sum promised him by the King of Poland as a reward for his long and dangerous services. In October, 1800, he went to Hamburg, intending to visit France or England, but was looked upon as a secret envoy of the Emperor of Russia, and prevented from carrying out his purpose. A plot against his life drove him to Denmark, whence he sailed for the United States in 1801. His wondrously adventurous and romantic life came to an end on July 19, 1802, at Fredericksburg, Va., before he was forty years of age.

The Assembly having determined that the bitter experience of the State from want of arms should not be repeated, directed the Executive to expend £10,000, in the immediate purchase from abroad of arms, powder, flint, and cartridge paper. On March 30, Governor Henry wrote to Thomas Barclay,

American consul at Paris, to make the purchases; and at the same time wrote to Mr. Jefferson and the Marquis Lafayette to aid him in the commission. This they readily did, and arms of the best pattern in use were procured for the State. Lafayette's response was particularly gratifying. He wrote, June 7, 1785.

"I have been honored with your Excellency's commands dated in council, March 30, and I find myself happy to be employed in the service of the Virginia militia, to whom I am so particularly bound by everlasting sentiments of regard and gratitude. . . . Indeed, Sir, the Virginia militia deserves to be well armed and properly attended. I pray God, these warlike stores may never be of use. But should America, unfortunately, have any future occasion for soldiers, I hope she will not leave out of her list, one, who was early adopted in her service, and who at all times will most readily and most devotedly offer his exertions. With unbounded wishes for the complete prosperity of the State of Virginia, and with affectionate sentiments of the most perfect respect for your Excellency, I have the honor to be, Sir,

"Your Excellency's most Ob^{t} Se$^{'rt}$.

"LAFAYETTE."

During the year 1785 Governor Henry was visited by that eccentric genius, John Fitch. After exploring the country northwest of the Ohio, and surveying much of the land in Kentucky, he had taken up his residence in Pennsylvania, and in the spring of 1785 conceived the idea of a steamboat. In order to raise the means to make his experiments, he offered for sale copies of a map of the Northwest

which he had drawn. On his visit to Governor Henry he explained his plan of steamboat navigation. The Governor seems to have duly appreciated the importance of the invention, and in order to obtain for Virginia its benefits, he took from Fitch a bond dated November 16, 1785, payable to himself and his successors in office, in the penalty of £350 conditioned:

"If the above bound John Fitch should receive subscriptions for his maps of the No. West parts of America to the amount of one thousand French crowns, that he, the said Fitch, is to exhibit a full proof of the practicability of rowing a vessel by the force of a steam engine in the commonwealth of Virginia, within nine months after said subscriptions are received by said Fitch, in a vessel of not less than one ton burthen."

This paper, written by the hand of Fitch, must have been executed upon the proposal to sell the number of maps stated in Virginia, and as an inducement for Virginians to subscribe for them. He perfected his plans and made a successful trial trip with his boat on the Delaware, at Philadelphia, August 22, 1787, in the presence of the members of the Federal Convention then sitting there. Afterward Robert Fulton, it is said, obtained his drawings and papers from a person with whom they were left for safe-keeping, and perfected the invention for which the world was indebted to Fitch. Meanwhile, Fitch, too poor to utilize the product of his genius, and driven to despair, committed suicide in 1798. Had the State of Virginia been sufficiently recovered from the war, there is little doubt she would have

furnished Fitch with the means necessary to construct his boats for her waters, an exclusive right to navigate which she in 1787 granted him.[1]

In Virginia the harsh criminal law of England had been continued, whereby the death penalty was imposed for many felonies, regardless of the grade of the crime. This was abhorrent to the nature as it was inconsistent with the reason of Governor Henry. He therefore fell upon the plan of granting pardons where the crimes were not heinous, upon condition that the convict be subjected to hard labor for a designated period. His letter to Charles Pearson,[2] the officer of the city of Richmond, who was to take charge of some so pardoned, shows the heart of a genuine philanthropist in his directions as to their treatment, and especially in the provision for their attendance on Divine service. It is clear that the Governor's design was to effect the reformation of the criminals so treated. This action of Governor Henry was tested in the Court of Appeals, and it was determined by that tribunal that the condition was void, and the pardon absolute.[3] The Legislature of 1785 was then sitting, and an act was at once passed authorizing the Executive to grant such conditional pardons, except in cases of murder or treason.[4] From this humane and proper movement of Governor Henry came the penitentiary system of the State which was adopted in 1796.

Soon after the commencement of his term Governor Henry received through Sir James Jay, a brother of the Hon. John Jay, a communication from

[1] For a sketch of John Fitch, see Appleton's Cyclopædia of American Biography.

[2] Vol. iii., 285.

[3] Commonwealth vs. Fowler, 4 Call., 35.

[4] Hening, xii., 45.

the famous Countess of Huntingdon, the follower of Whitefield, asking his assistance in her plan to christianize and civilize the North American Indians.[1] This plan, which did so much honor to her head and heart, looked to the settlement in the midst of, or near to, the Indians of colonies of pious, industrious people from Great Britain, who by precept and example might induce the Indians to adopt Christian habits. While the Countess proposed to send the colonists over, she required for them grants of lands in or near the Indian territory.

Governor Henry gave the plan his hearty approval, but as it required the co-operation of Congress, he enclosed the communications of the Countess and Sir James Jay to the Virginian delegates, with the following letter:

"COUNCIL CHAMBER, February 3, 1785.

"GENTLEMEN: I send you herewith copies of some papers lately received which contain matters of a very interesting nature. The letter from the Countess of Huntingdon and the outlines of her plan evince a mind well informed, liberal, and generously enlarged. The observations of Sir James Jay must impress everyone with a sense of their rectitude.

"The civilization and christianizing of the Indians, if indeed they are two things, are matters of high moral and political concern. But when these shall be attended with the acquisition of people from Europe of the description given by the Countess, they form an object so desirable, and so truly great, as deeply to interest the feelings of every good American and good man. The difficulty of the undertaking is acknowledged. But where can we

[1] Vol. iii., 248.

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"GENTLEMEN: I send you herewith copies of some papers lately received which contain matters of a very interesting nature. The letter from the Countess of Huntingdon and the outlines of her plan evince a mind well informed, liberal, and generously enlarged. The observations of Sir James Jay must impress everyone with a sense of their rectitude.

"The civilization and christianizing of the Indians, if indeed they are two things, are matters of high moral and political concern. But when these shall be attended with the acquisition of people from Europe of the description given by the Countess, they form an object so desirable, and so truly great, as deeply to interest the feelings of every good American and good man. The difficulty of the undertaking is acknowledged. But where can we

[1] Vol. iii., 248.

find so great a good placed in our reach, and freed from difficulty?

"The whole œconomy of this lower world proves, that it is by labor and perseverance only that good is obtained and evil avoided. And if we wait till we are presented with the opportunity of achieving good and great things without trouble or hazard, we shall forfeit our character and disgrace that spirit of generous enterprise, whose influence hath been seen to pervade our Nation.

"If it depended on the Executive here to give the necessary assistance to the views of this worthy Lady a *moment* would not be lost. A scheme so calculated to promote the Honor and Interest of our Country, would be embraced without hesitation. But you Gentlemen well know that the powers under which we act are too circumscribed to take in this subject. Indeed I fear even the Legislature will be embarrassed in this Affair, because all the Lands bordering on the Indians in this State are ceded to Congress. This is the principal reason of my giving you the trouble of this letter, that, if possible, I might at one view present to the Assembly at their next meeting, the papers I now send you, with the Intentions of Congress on the Subject of them.

"I beg the favor of you to make known to me those intentions as soon as it is convenient, and permit me to assure you that I am with great regard

"Gentlemen, Your most humble Servant,

"P. HENRY.

"P. S.—You will see that a part of these papers is not wished to be made public beyond a certain extent."

General Washington heartily approved also of the scheme of the Countess, and wrote a letter to

Richard Henry Lee, the President of Congress, urging favorable action on it.[1] The answer of Colonel Lee stated that two things prevented the body from favoring this humane proposal. One was the fact that the public lands were considered pledged to the payment of the public debt; and the other, a fear that the settlers might sympathize with Great Britain in her unfriendly temper toward the United States, and exercise a dangerous influence over the Indians.[2] At the fall session of the Legislature the Governor transmitted copies of the papers, with the action of Congress laying them on the table, to the Assembly. But that body did not feel at liberty to take up the scheme. It can hardly be doubted that a great mistake was made in not giving the plan of the Countess a fair trial. The success of Christian missions among the Indians has demonstrated the fact that they can be reached and elevated by Christianity, and had the attempt been successfully made at the time, the country would have been saved much of the blood and treasure expended in the cruel wars which have followed.

Notwithstanding his failure to get his countrymen to conciliate the Indians by encouraging intermarriages and Christian missions, Governor Henry continued his efforts to keep them on peaceful terms with the whites. On January 6, he issued his proclamation forbidding for the present the surveying or taking possession of the lands northwest of the Ohio, and below the mouth of the Tennessee, reserved for the Virginia line and Illinois regiment. This action had been authorized by the Assembly then in session.

[1] Writings of Washington, ix., 86–91. [2] Idem, 92–93.

During the year 1785 there was an effort to divide the State of North Carolina, against her consent, which threatened great danger to Virginia. In June, 1784, North Carolina tendered a deed of cession to the United States, of her territory west of the mountains, now constituting the State of Tennessee. The act was to be void unless accepted by Congress within two years, and North Carolina was to retain her jurisdiction over the territory till it was deeded to the United States. At the same time the land office for the ceded lands was closed. The people of the district had long been dissatisfied with the protection afforded them by the State, and now concluded that Congress would not accept the deed for two years, and that in the meantime they would be cared for by neither government. A move was commenced which resulted in the formation of a separate government for the counties west of the mountains. These called themselves the State of Franklin,[1] and although North Carolina repealed her act of cession in the winter of 1784–5, they persisted in their separate organization. Colonel John Sevier, who was for abandoning the movement after the repealing act of North Carolina, was elected, and induced to serve as their governor.

The disposition of the western counties to leave their parent States was contagious. Not only was Kentucky moving for a separate government, but restless spirits in the Virginia counties west of the Alleghanies were endeavoring to divide the State. The chief of these was Colonel Arthur Campbell, County Lieutenant of Washington County, who not only got up a petition to Congress praying for a di-

[1] Sometimes written "Frankland."

vision of the State by this range of mountains, but endeavored, though a magistrate, to prevent the execution of the militia and tax laws in his county.[1] The militia law, causing much dissatisfaction at the time, was one passed in 1784, by which the commissions of the old officers were annulled and the Governor was directed to fill the vacancies. In obedience to this, Governor Henry filled the vacancies in Washington County with those who were known to oppose the schemes of Colonel Campbell. He also caused him to be cited before the Council to answer charges of misconduct in his office as magistrate, which resulted in the loss of his commission. Fully alive to the danger of an attempt at separation by violence, he got from Governor Sevier an assurance that no encouragement would be given to Colonel Campbell and his associates to join the State of Franklin. At the fall session of the Assembly in 1785, the Governor laid before the body the papers connected with this dangerous move, and recommended "lenient measures in order to reclaim our erring fellow-citizens." His advice was followed. The militia law was amended so as to restore the old officers, and the collection of the taxes was postponed from September till May.

But with this moderation the Assembly showed the same firmness of purpose which had characterized the Governor. They passed an act making the erection of an independent government within the limits of Virginia, except by an act of her Assembly, high treason, and the attempt to establish such a government a high crime and misdemeanor; and they empowered the Governor to call out the mi-

[1] Calendar of Virginia State Papers, iv., 3, 93, 95.

litia of the State to suppress any combination for such a purpose.[1] These measures effectually prevented further effort to divide the State against her consent.

To show the disposition of the State to allow a proper division of her territory, the Assembly passed an act consenting to the erection of the district of Kentucky into a State so soon as a convention of its people desired it, and Congress gave its consent.[2]

Governor Henry was fully alive to the danger which would threaten all the States, if the irregular action of the State of Franklin was successful in establishing an independent State. This action, he was satisfied, was in great measure the result of Spanish machinations. He kept himself fully informed of the conduct of the would-be State, by correspondence, and among those who gave him information was Colonel Joseph Martin, who resided within its bounds, and was the Indian agent for both North Carolina and Virginia. This officer had been elected to the first convention which was called after the act of cession. But after the repealing act, if not before, he threw himself among the opposition to the new State. In a letter to Governor Henry dated August 14, 1786, he related the hostilities begun on the part of the people of Franklin toward the Indians, and their lawless conduct toward John Martin, his assistant Indian agent, including the destruction of the property in his charge.

Governor Henry replied on October 4, 1786, in a letter reviewing the situation of the new State, and

[1] Hening, xii., 41. [2] Idem, 37.

giving the reasons which should induce them to disband, which he desired Colonel Martin to use to effect that end.[1] Doubtless this letter was used as desired, and was potent in bringing about the result finally attained. The fortunes of the new State steadily declined during the year 1787, and finally Colonel Martin wrote to Governor Henry's successor in office, April, 1788: "I am happy to inform your Excellency that the late unhappy dispute between the State of North Carolina and the pretended State of Franklin is subsided. I enclose two letters from the late Governor, since the receipt of which I have seen him. I have met with some difficulty in settling the dispute, and flatter myself that it is effected."[2] The result was finally brought about by the conciliatory measures of the government of North Carolina, and the refusal of Congress to recognize the new State.[3]

[1] Vol. iii., 374. [2] Calendar of Virginia State Papers, iv., 432.

[3] See Ramsey's History of Tennessee for an account of the State of Franklin. J. R. Gilmore has also written concerning it in his volume, John Sevier, the Commonwealth Builder, in which he does injustice to Colonel Martin.

CHAPTER XXXIV.

GOVERNOR OF THE STATE.—FIFTH TERM.—1785-6.

Election of Governor Henry for Fifth Term.—Inefficiency of the Confederation.—Steps Leading to Its Revisal.—Interference by Spain with the Settlement of the Mississippi Valley.—Indian Hostility Led by McGilvray.—Retention of the Northwestern Posts by the British.—Indian Raids.—Colonel William Christian Killed in One of These.—Beautiful Letter of Governor Henry to Mrs. Christian.—His Appeal to Congress on Behalf of Kentucky.—His Efforts to Protect the Inhabitants on the Failure of Congress to do so.—Scheme of John Jay to Yield the Free Navigation of the Mississippi to Spain for a Term of Years in Negotiating a Treaty.—Action of the Eastern States in Congress.—Important Letter from James Monroe to Governor Henry on this Subject.—Proposed Division of the Union by Northern Men.—Irritating Conduct of Spanish Officials.—Action of Virginia Legislature.—Effect on Governor Henry of the Action of the New England States.—Elected a Delegate to the Proposed Federal Convention.—Declines another Election as Governor.—Condition of His Private Affairs.—Marriage of Two Daughters.—Letter to Mrs. Roane on Her Marriage.

On November 25, 1785, Mr. Henry was again elected to the office of Governor[1] without opposition, and on the 29th Mr. Madison, from the committee appointed to notify him of his election, reported the following answer:

"Gentlemen: I beg you will be pleased to return my best acknowledgments to the General Assembly, for the honour they have now done me, and to assure them that my best exertions shall not be wanting to promote the public good, in the honorable station to which they have again called me.

[1] Journal, 56.

The obliging manner in which you, gentlemen, have been pleased to make this communication from the Assembly, demands my thanks, which I beg you to accept." [1]

During this term the State was sufficiently recovered from the effects of the war to commence the payment of her foreign debts.[2] To no one could this be more grateful than to the Governor. He was not forgetful of the peculiar obligation of the State to Oliver Pollock, and gave his claim a preference.

A very fair impression of Governor Henry's conduct of the business of his office during this term will be obtained from the executive correspondence during the period, only a small part of which is given in this work.

The year 1786 witnessed the culmination of the series of events which led to the call of the convention for the revisal of the Articles of Confederation, which were now demonstrated to be utterly inadequate to the needs of a general government.[3] They constituted "in fact nothing more than a treaty of amity, of commerce, and of alliance between independent and sovereign states." [4] Under them Congress, besides a lack of power in other important matters, could not regulate commerce between the States, nor with foreign nations, nor raise a revenue. The efforts to engraft amendments to effect these objects had failed; and besides being without adequate powers, the attendance of the

[1] Journal, 62.

[2] For a statement of the rapid recovery of Virginia from the war, and her prosperity, 1783–8, see Virginia Convention of 1788, by Hugh Blair Grigsby, Virginia Historical Society publications, 1890.

[3] See Defects of the Confederation summed up by Madison, Madison's Works, i., 320.

[4] Madison, id., 322.

members became irregular, and often the country was left with no visible depository of the scanty powers confided to the general government. The refusal or neglect of the States to comply with its requisitions, left Congress without means to meet its obligations, and brought its promises to pay into contempt. The jealousies of different States caused the passage of laws imposing duties on internal trade, and these excited retaliation. It was in the effort to find a remedy for this that the path opened to a federal convention.

We have seen the invitation of Virginia, January 21, 1786, to the States, for a meeting of commissioners to revise and augment the powers of Congress over trade. The meeting was held at Annapolis in September, 1786, but only commissioners from five States attended.[1] They determined not to attempt the task which required the action of all the States, and adjourned, after adopting a report drawn by Alexander Hamilton, a delegate from New York, which pointed out the fact that, to properly vest in Congress a power to regulate trade, would require the revision of the entire articles of confederation, already proven to be radically defective, and proposed a convention of deputies from the States to investigate and remedy the defects in the general government.

In the meanwhile other events had happened which endangered the existence of the Union, and which must be understood in order to appreciate the political course of Governor Henry.

The treaty of 1783 was a bitter disappointment to Spain. She neither regained Gibraltar, nor se-

[1] New York, New Jersey, Pennsylvania, Delaware, and Virginia.

cured the eastern valley of the Mississippi. Her court fully shared in the fears concerning the young republic expressed by Count D'Aranda, and determined if possible to prevent the occupation of this valley by citizens of the United States. On June 1, 1784, a treaty was entered into at Pensacola by Miro, the Spanish Governor of Louisiana, and McGilvray, the celebrated half-breed chief of the Creeks, whereby the Spaniards were to furnish arms and ammunition without limit, and the Indians were to break up the American settlements west of the Alleghanies. The able and wily chief, who has been likened to Talleyrand, designed the confederation of the Creeks, Seminoles, Chickamaugas, Cherokees, Choctaws, and Chickasaws, which would give him twenty thousand of the bravest warriors on the continent, and with whom, and the co-operation of the Northern Indians, he expected to destroy all the American settlements west of the mountains. Fortunately, one-half of the Southern Indians refused to join the coalition.[1] McGilvray now adopted the plan of rendering the settlements insecure by constant attacks from small parties, stealing their horses and cattle, destroying their crops, and murdering all persons found outside of the forts. By this incessant annoyance he purposed to drive the settlers back across the mountains. To further discourage settlements, the King of Spain announced to Congress, that under no circumstances would he consent to the navigation of the Mississippi by the Americans. Thanks to the brave set-

[1] The Cherokees, Choctaws, and Chickasaws, numbering 10,000 warriors. See, for McIlvray's plan, The Advance Guard of Western Civilization, Gilmore, 83–5.

tlers west of the mountains, the country was not only held against the savage foe, but rapidly increased in population, and in 1786 there were probably sixty thousand whites in the territory comprised in the States of Tennessee and Kentucky. At first they were satisfied to enjoy among themselves the products of their rich lands, but these soon exceeded their wants, and transportation over the mountains to the markets of the East being too tedious and expensive, they naturally looked to the great waterways which ran through their lands, and reached the Gulf at the mouth of the Mississippi. When they found this outlet held by an unfriendly nation, which denied them passage, they were loud in their complaints, and threatened to drive the Spaniards from the mouth of the Mississippi themselves, if Congress afforded them no relief. This Congress was in no hurry to do. That inefficient body either was ignorant of the vast importance of the western territory, or unable to protect it; or, as has been charged, the New England States feared that their poor lands would be abandoned by their farmers for the productive bottoms of the Mississippi and its tributaries, and therefore desired to discourage settlements upon them.

The result was that the Federal Government, whose duty it was to protect this territory from the Indians, contented itself with making a few treaties, and left the settlers to take care of themselves as regards the tribes refusing to treat, and to get to market as best they could.

The occupation by the British of the posts along the lakes, in violation of their treaty obligations, was not without a hope of finally regaining the

Northwest. British traders went out from them and industriously circulated the report that the country was under British domination, which was the more readily believed because the Americans had no force in it. The French inhabitants at St. Vincennes were induced to declare themselves British subjects, and to refuse the American settlers any assistance against the attacks of the hostile Indians. Colonel Legras, who had been left in command at the post, went so far as to order the Americans to move away.[1] The Wabash and Shawnee tribes made constant war not only on the Americans north of the Ohio, but upon the Kentucky settlers as well. Their warfare was conducted by predatory parties, attacking at different points, and was instigated by the occupants of the British posts. Indeed, Great Britain seemed to be satisfied that the American Union would speedily fall to pieces, and she was arranging to seize upon the Northwest in the confusion and weakness which would ensue.

These Indian troubles gave Governor Henry the greatest concern, heightened by personal bereavement.

In August, 1785, Colonel William Christian had moved his family to Kentucky, but had not been pleased with his surroundings, and had determined to leave the country. He found that his family was in continual danger from the Indian incursions, and in order to encourage the punishment of the marauders, he invariably headed the parties that went in pursuit. In April, 1786, some Indians from the Wabash were thus pursued by twenty men with Colonel Christian as their leader, and

[1] MS. letter of John May to Governor Henry, July 14, 1786.

were followed across the Ohio. They were overtaken by the Colonel and three of his men on the 8th. Without waiting for their companions to come up, they rushed upon the savages, and in the conflict both Colonel Christian and Captain Isaac Keller received mortal wounds.

The intelligence of this sad event was conveyed to Governor Henry by letters from Kentucky, which gave a vivid picture of the distressed condition of the settlers, and their sore need of protection from the savages. Governor Henry's first thought was of his bereaved sister, and to her he addressed the following touching letter, in which tenderness and piety are so beautifully commingled in the cup of consolation that he offers:

"RICHMOND, May 15th, 1786.

"I am at a loss how to address you, my dear sister. Would to God I could say something to give relief to the dearest of women and sisters. My heart has felt in a manner new and strange to me; insomuch that while I am endeavoring to comfort you, I want a comforter myself. I forbear to tell you how great was my love for my friend and brother. I turn my eyes to heaven, where he is gone, I trust, and adore with humility the unsearchable ways of that Providence which calls us off this stage of action, at such time and in such manner as its wisdom and goodness directs. We cannot see the reason of these dispensations now, but we may be assured they are directed by wisdom and mercy. This is one of the occasions that calls your and my attention back to the many precious lessons of piety given us by our honored parents, whose lives were indeed a constant lesson and worthy of imitation. This is one of the trying scenes, in which the Chris-

tian is eminently superior to all others and finds a refuge that no misfortunes can take away. To this refuge let my dearest sister fly with humble resignation. I think I can see some traces of a kind Providence to you and the children in giving you a good son-in-law, so necessary at this time to take charge of your affairs. It gives me comfort to reflect on this. Pray tell Mr. Bullitt I wish to hear from him and to cultivate an intimacy with him, and that he may command any services from me. I could wish anything remained in my power to do for you and yours. And if at any time you think there is, pray let me know it and depend on me to do it to the utmost. I need not tell you how much I shall value your letters, particularly now, for I am anxious to hear from you and how everything goes on in your affairs. As so few of the family are left I hope we shall not fail to correspond frequently. It is natural to me to increase in affection to the survivors as the number decreases. I am pained on reflecting that my letters always are penned as dictated by the strongest love and affection to you, but that my actions have not kept pace. Opportunities being wanting must be the excuse. For indeed, my dearest sister, you never knew how much I loved you or your husband. My heart is full—perhaps I may never see you in this world—oh, may we meet in that heaven to which the merits of Jesus will carry those who love and serve him. Heaven will, I trust, give you its choicest comforts and preserve your family. Such is the prayer of him who thinks it his honor and pride to be your affectionate brother,

"P. HENRY.

"TO MRS. ANNE CHRISTIAN, *Kentucky*."

On the next day he addressed letters to the President of Congress and the Virginia delegates, relating the distressed condition of the Kentucky settlements,

and the danger of a concerted attack upon the whole western border by the Indians. He reminded Congress of its duty to protect this border; of the injustice of putting the expense upon Virginia, whose former expenditures in that behalf were not yet reimbursed; and of the inefficiency of the Indian Department, which had not appointed agents to live with the Indian tribes who might prevent combinations, or give timely warning of hostile intentions, and which had not even informed him of the tribes who had entered into treaties with the whites. He also suggested necessary reforms. To his urgent letters he received a reply from the delegates, dated June 8, stating the want of a quorum in Congress, and intimating the unwillingness on the part of some of the States, not exposed, to incur the expense of defending the frontiers of others. To this he replied in a letter dated July 5, in which after adding other evidence of the imminent danger of a general Indian war, he insisted upon an immediate answer to the question, "Will Congress defend and protect our frontiers?" in order that he might take the necessary steps at once to protect the Virginia border. He pointed out the danger of the western people separating from the United States in order to get protection, and the dilemma of the States having western settlements, which might be called on either to abandon these settlements or the confederation. He suggested the plan of engaging Indian tribes, unfriendly to each other, in hostilities, when some of them are preparing to war upon the whites, and concluded by reminding Congress that no commissioner had appeared on its behalf to adjust the claims of Virginia for expenses incurred on account

of the ceded northwestern territory, though the Virginia commissioner, Colonel Heth, had been in the pay of the State some time waiting for the Continental agent. And he asked whether Congress intended to appoint a commissioner for the purpose.[1]

Before this last letter reached its destination, the Governor received a letter from the Secretary of Congress dated July 3, informing him that the commandant on the Ohio had been directed to detach two companies of infantry to the Falls of the Ohio, and requesting that the militia of Kentucky be ordered to co-operate with them in defending the frontiers. The necessary orders were at once given to the County Lieutenants of Kentucky, and Colonel Harmar, as commander of the Continental forces, was informed of the fact. An expedition was organized against the troublesome Indians north of the Ohio, upon the suggestion of the Governor, and General George Rogers Clark was put in command by request of the Kentuckians. He marched in October with one thousand Kentucky troops against the Wabash Indians, but dissipation had clouded his genius, and soon he lost the confidence of his men, who refused to follow him, and the expedition had to be abandoned.[2] Fortunately, a party of men under Colonel Logan were successful in an attack upon the Shawnees, and thus the public were somewhat consoled for the misfortunes of General Clark. It does not appear that the Continental troops rendered any aid in these Indian troubles.

But the failure of Congress to protect the western border was not the sole cause of complaint. In July, 1785, Guardoqui arrived in America as

[1] Vol. iii., 362. [2] Butler's History of Kentucky, 153.

minister from Spain. Mr. Jay was appointed to arrange the terms of a treaty with him, and was directed to insist on the territorial boundaries and the free navigation of the Mississippi as settled by the treaty with Great Britain. The Spaniard professed a willingness to grant liberal commercial advantages, on condition that the right to use the Mississippi was given up. The commercial advantages were to accrue mainly to the Eastern and Middle States, while the occlusion of the Mississippi would not only injure the Southern States, but would prevent the filling up of the valley, and the admission of new States to counteract the weight of the Eastern States in Congress. Thus Guardoqui sought to array one section against the other. Jay proposed to Congress to change his instructions, and to permit him to yield the right to navigate the Mississippi, the treaty to last for twenty-five or thirty years.

This Congress attempted to do in secret session, on August 25, 1786, by a vote of seven States to five, revoking at the same time the order to conclude no treaty until it was communicated to Congress.[1] As this was in the face of the constitutional provision which required nine States to enter into a treaty, it was justly deemed revolutionary by the minority. Jay, however, proceeded to frame an article in accordance with the instructions of the seven Northern States.[2] But it seems that already a disposition had manifested itself in the Eastern States to secede from the Union, which gathered

[1] Secret Journal, iv., 109, 110. The vote for rescinding was New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania. [2] Curtis : History of Constitution, i., 318.

strength from the determination of the Southern States to insist on the free navigation of the Mississippi.[1]

Information of the action of Congress, and of the plot to dissolve the Union, was conveyed to Governor Henry by the following letter of James Monroe, one of the Virginia delegation. It is of the deepest interest in throwing light on one of the absorbing questions of the day, and on the circumstances which determined the future political course of Governor Henry.

"NEW YORK, Aug. 12, 1786.

"DEAR SIR: I have wished to communicate for some time since to you an account of a transaction here, for your sentiments respecting it, but have declined from the want of a cypher, that of the delegation being we fear lost. The affair however has come to such a crisis and is of such high importance to the U. S. and ours in particular, that I shall risque the communication without that cover. Jay, you know, is intrusted with the negotiation with the Spanish resident here for the free navigation of the Mississippi and the boundaries between Georgia and the Floridas; his instructions, altho' they authorize by implication the formation of a treaty of commerce, confine him expressly with respect to those points, and prohibit his entering into any engagement whatever which shall not stipulate them in our favor. Upon my arrival here in December last (having been previously well acquainted with Mr. Jay), in conversation with him I found he had agreed with Guardoqui to postpone the subject of the Mississippi &c, in the first instance, and to take up that of a commercial treaty; that in this they had gone so far as that

[1] Critical Period of American History, by Fiske, p. 211.

Mr. Jay was possessed of the principles on which he would agree to make it, upon condition on our part of a forbearance of the use of the Mississippi for 25 or 30 years. I soon found in short that Mr. Jay was desirous of occluding the Mississippi, and of making what he termed advantageous terms in the treaty of commerce the means of effecting it. Whether he supposed I was of his opinion or not, or was endeavoring to prevail on me to be so, I cannot tell, but as I expressed no sentiment on the subject he went further, and observed 'that if the affair was brought to the view of Congress they would most probably disagree to it, or if they should approve the project, conduct themselves so indiscreetly as to suffer it to become known to the French and English residents here, and thus defeat it. To avoid this he said it occurred to him as expedient to propose to Congress, that a committee be appointed to controul him in the negotiation, to stand to him in the room of Congress, and he to negotiate under the committee. I then reminded him of the instructions from our state respecting the Mississippi to the delegation, & of the impossibility of their concurring in any measures of the kind. Our communications on this subject ended from that time. Upon the arrival of Col. Grayson, I communicated to him all these circumstances, with my opinions on them. From that time, and I had reason to believe he had begun even before my arrival, we have known of his intriguing with the members to carry the point. On 27, of May, he addressed a letter to congress precisely in the sentiment above, stating difficulties in the negotiation, and proposing that 'a committee be appointed with full power to *direct and instruct* him on every point relative to the proposed treaty with Spain.' As we knew the object was to extricate himself from the instruction respecting the Mississippi, we

of course opposed it. We found he had engaged the eastern states in the intrigue, especially Mass.; that New York, Jersey and Pen[a] were in favor of it, and either absolutely decided, or so much so as to promise little prospect of change. The committee proposed by the Secretary was admitted generally to be without the powers of Congress. Since 9 states only can give an instruction for the formation of a treaty, to appoint a committee with the powers of 9 states was agreed to be a subversion of the government and therefore improper. The letter however was referred to a committee, who ultimately agreed to report, that the committee be discharged, and the subject referred to a committee of the whole, and the secretary ordered to attend. He did so, and came forward fully with the plan of a commercial treaty conditioned with the forbearance of the use of the Mississippi for 25 or 30 years, with a long written speech, or report, in favor of it. The project is in a few words this: '1. That the merchants of America and Spain shall enjoy, the former in the ports of Spain & the Canaries, the latter in those of the U. S. the rights of native merchants reciprocally. 2. That the same tonnage shall be paid on the ships of the two parties in the carriage of the productions & the manufactures of the 2 countries. 3. That the *bona fide* manufactures and productions of the United States (tobacco only excepted, which shall continue under its present regulations) may be imported in American or Spanish vessels into any of his majesty's ports aforesaid, in like manner as if they were the productions of *Spain*. And on the other hand that the *bona fide* manufactures and productions of his majesty's dominions may be imported into the U. S. in Spanish or American vessels, in like manner as if they were those of the said states. And further that all such duties and imposts as may *mutually*

be thought necessary to lay on them *by either party* shall be ascertained & regulated on principles of exact reciprocity, by a tariff to be formed by a convention for the purpose, to be negotiated & made within one year after the exchange of the ratification of this treaty, and in the meantime that they shall severally pay in the ports of each other the duties of natives only. 4. Masts and timber shall be bought here for the royal navy, provided that upon their carriage to Spain they shall cost no more than if they were bought elsewhere. 5. That in consideration of these advantages to the U. S. they agree to forbear the use of the Mississippi for 25 or 30 years, the term for which the treaty shall last.' This treaty independent of the sacrifice, I consider as a very disadvantageous one, and such as we should not accept, since it in reality gains us nothing, and subjects to very high restrictions, such as exist in none of our other treaties, altho' they are in effect bad enough. But they are to be justified, especially those of France and Holland, in the motives which led to them, to bring those powers into the war. The subject was referred to a committee of the whole on Thursday last, who after debate rose and reported that they have come to no decision, and require leave to sit again. The delegation of Mass. moved in committee that the ultimatum in his instructions respecting the Mississippi be repealed, in which event he would have unlimited powers to act at pleasure. This they said might be carried by 7 states. We observed, that without the ultimatum the instruction would be a new one, and of course 9 states necessary to it. The subject will again be taken up in a few days. It appears manifest they have 7 states, and we 5, Maryland inclusive with the southern states. Delaware is absent. It also appears that they will go on under 7 states in the business, and risque the preservation

of the confederacy on it. We have, and shall throw every possible obstacle in the way of the measure, protest against the right of 7 either to instruct or ratify, & give information of this to Mr. Jay and the Spanish resident, so that neither may be deceived in the business. This is one of the most extraordinary transactions I have ever known, a minister negotiating expressly for the purpose of defeating the object of his instructions, and by a long train of intrigue and management, seducing the representatives of the states to concur in it. It is possible some, or perhaps one, in which case it will be every member, may change his sentiments, but as he risqued his reputation upon carrying it, it is to be presumed he had engaged them too firmly in the business to leave a possibility of their forsaking him. This however is not the only subject of consequence I have to engage your attention to. Certain it is that committees are held in this town of eastern men, and others of this state, upon the subject of a dismemberment of the states east of the Hudson from the union, and the erection of them into a separate government. To what lengths they have gone I know not, but have assurance as to the truth of the above position, with this addition to it, that the measure is talked of in Mass. familiarly, and is supposed to have originated there. The plan of the government in all its modifications has even been contemplated by them. I am persuaded these people who are in Congress from that state (at the head of the other business) mean that as a step toward the carriage of this, as it will so displease some of them as to prepare the states for this event. I am thoroughly persuaded the government is practicable, and with a few alterations the best that can be devised. To manage our affairs to advantage under it and remedy these defects, in my opinion, nothing is wanting but common sense

and common honesty, in both of which necessary qualifications we are, it is to be lamented, very defective. I wish much your sentiments upon these important subjects. You will necessarily consider this as under an injunction of secrecy, and confide it to none in whom the most perfect confidence may not be reposed. If any benefit may result from it, I should have no objection to your presenting it to the view of Council. Of this you will judge. Clearly I am of opinion it will be held connected with other objects, and perhaps with that upon which the convention will sit at Annapolis. On the part of the delegation we can give you similar information, except as to what passed between Mr. Jay and myself; will it be necessary? Of one point I have a perfect conviction, and upon this the rest of the delegation will perhaps not write you so freely as myself, which is this, that the Legislature should be convened at a time sufficiently early to elect members to take their seats precisely on the day that those of the present delegation expire; affairs are in too close & critical a situation for the state to be unrepresented a day, & eminent disadvantages may result from it. They did from this circumstance during the last year. Let me hear from you upon these subjects as soon as possible, and believe me with great respect and esteem your friend and servant,

"JAS. MONROE.

"To His Excellency GOVR. PATRICK HENRY.

"P.S. The object in the occlusion of the Mississippi on the part of these people, so far as it is extended to the interests of their States (for those of a private kind gave birth to it) is to break up so far as this will do it, the settlements on the western waters, prevent any in future, and thereby keep the

States southw'd as they now are, or if settlements will take place that they shall be on such principles as to make it the interest of the people to separate from the Confederacy, so as effectually to exclude any new State from it. To throw the weight of population eastward and keep it there, to appreciate the vacant lands of New York and Massachusetts. In short, it is a system of policy which has for its object the keeping the weight of government and population in this quarter, and is proposed by a set of men so flagitious, unprincipled, and determined in their pursuits, as to satisfy me beyond a doubt they have extended their views to the dismemberment of the gov't., and resolved either that sooner than fail it shall be the case, or being only desirous of that event have adopted this as the necessary means of effecting it. In conversations at which I have been present, the eastern people talk of a dismemberment so as to include Penna. (in favor of wh. I believe the present Delegation, Petit and Bayard, who are under the influence of eastern politics would be), and sometimes all the States south to the Potomac. Although a dismemberment should be avoided by all the States, and the conduct of wise and temperate men sho'd have in view to prevent it, yet I do consider it as necessary on our part to contemplate it as an event which may possibly happen, and for which we sho'd be guarded —a dismemb't. wh. wo'd throw too much strength into the eastern division should be prevented. It should be so manag'd (if it takes place) either that it sho'd be form'd into three divisions, or if into two, that Penna. if not Jersey sho'd be included in ours. Be assur'd as to all the subjects upon wh. I have given information about, it hath been founded on authentic documents. I trust these intrigues are confin'd to a few only, but by these men I am assur'd they are not; whatever anxiety they may give

you I am persuaded it cannot be greater than that wh. I have felt. J. M.

"To GOVERNOR P. HENRY."

Upon the receipt of this letter Mr. Henry, appreciating the danger of the situation, exerted himself to defeat the proposed treaty, in so far as it provided for the relinquishment of the Mississippi. He not only earnestly protested through the Virginia delegates in Congress, but he warned the people of Kentucky of their danger, and urged them to take steps to protect their rights.[1]

In the meantime an event took place in the Mississippi country which added greatly to the dangers of the situation. A trader, named Amis, attempted to carry a cargo down the river to New Orleans. His boat and goods were seized by the Spanish officer in command at Natchez, and he left to return to his home on foot. As he slowly made his way back, he spread the account of his wrongs, and when the Western people had become greatly excited by the recital, the exaggerated report reached them that Congress had concluded a treaty with Spain by which the river was to be closed indefinitely. Their indignation knew no bounds, and they began to take steps to take care of themselves. Meetings were held, and committees of correspondence were formed. Retaliation was made upon some Spanish goods at St. Vincennes by General Clark, and plans were laid to prevent the Spaniards from navigating the upper Mississippi, and to organize an expedition under General Clark, to drive them from the lower river.[2]

[1] Vol. iii., 380.

[2] Letter of Thomas Green to Governor of Georgia, Dec. 31, 1786; among Virginia Archives.

The proposed surrender of the Mississippi excited indignation in every part of Virginia. The House of Delegates on November 29, 1786, expressed this feeling in the following resolutions, unanimously adopted, on reading a memorial on the subject presented by the members from Kentucky.

"*Resolved*, That the common right of navigating the river Mississippi, and of communicating with other nations through that channel, ought to be considered as the bountiful gift of Nature to the United States, as proprietors of the territories watered by the said river and its eastern branches, and as moreover secured to them by the late revolution.

"*Resolved*, That the Confederacy, having been formed on the broad basis of equal rights in every part thereof, to the protection and guardianship of the whole, a sacrifice of the rights of any one part to the supposed or real interest of another part would be a flagrant violation of justice, a direct contravention of the end for which the federal government was instituted, and an alarming innovation in the system of the Union;

"*Resolved*, That the delegates representing this State in Congress ought to be instructed in the most decided terms to oppose any attempt that may be made in Congress to barter or surrender to any nation whatever the right of the United States to the free and common use of the river Mississippi, and to protest against the same, as a dishonorable departure from that comprehensive and benevolent policy which constitutes the vital principle of the Confederacy; as provoking the just resentments and reproaches of our western brethren, whose essential rights and interests would be thereby sacrificed and sold; as destroying that confidence in the wisdom, justice and liberality of the Federal Coun-

cils which is so necessary at this crisis, to a proper enlargement of their authority; and finally, as tending to undermine our repose, our prosperity, and our union itself: and that the said delegates ought to be further instructed to urge the proper negotiations with Spain, for obtaining her concurrence in such regulations touching the mutual and common use of the said river, as may secure the permanent harmony and affection of the two nations: and such as the wise and generous policy of His Catholic Majesty will perceive to be no less due to the interests of his own subjects, than to the just and friendly views of the United States."

As no one had a higher appreciation of the value to the Union of the Mississippi and the contiguous country, so no one felt the action of the Northern States more keenly than Governor Henry. He had induced Virginia to make common cause with New England in the beginning of the Revolution; had urged the confederation of the States, and the ceding of the northwestern territory to cement it; and when the articles had proved defective, had been the champion of amendments to strengthen the Federal power. That the Northern States, for which Virginia had done so much, should, from a purely selfish policy attempt to barter away the navigation of the Mississippi, so valuable to her, at the risk of losing the all-important Western country and dividing the Union, was a shock to him indeed. The correspondence of the day indicates the impression made on him by the proposed relinquishment. Madison wrote to Washington from Richmond, December 7, 1786:

"I am entirely convinced, from what I observe here, that unless the project of Congress for ceding

to Spain the Mississippi for twenty-five years, can be reversed, the hopes of carrying this State into a proper federal system will be demolished. Many of our most federal leading men are extremely soured by what has already passed. Mr. Henry, who has been hitherto the champion of the federal cause, has become a cold advocate, and in the event of an actual sacrifice of the Mississippi by Congress, will unquestionably go over to the opposite side." [1]

And John Marshall wrote to Arthur Lee, March 5, 1787:

"Mr. Henry, whose opinions have their usual influence, has been heard to say that he would rather part with the confederation than relinquish the navigation of the Mississippi." [2]

Mr. Henry made frequent allusion to the subject on the floor of the Virginia convention of 1788, and in terms which plainly indicated the distrust of the Northern States which their conduct had engendered in his bosom.

Washington was not so greatly impressed with the importance to the Union of the Mississippi, relying as he did on connecting the West and the East by canals, and fearing that trade down that river might weaken the ties which bound the two sections together.[3] But experience has shown that Mr. Henry's views were the more correct. The waterways designed by Washington were never completed, and the free navigation of the Mississippi, finally secured under the new government, soon peopled the Mississippi Valley with a population loyal to

[1] Madison's Works, i., 264. [2] Life of Arthur Lee, ii., 321.
[3] Writings, ix., 63–65; 117–119.

the Union. Even now, when the introduction of railroads has bound the East and West together in a manner never anticipated, the great river is still an invaluable channel of commerce for the States along its banks.

It is to the lasting honor of Virginia that the irritation caused by the proposed Spanish treaty did not prevent her from acting on the recommendation of the Annapolis Convention. On November 9, the House passed the bill for the appointment of seven commissioners to attend the proposed convention, to join "in devising and discussing all such alterations and further provisions as may be necessary to render the federal constitution adequate to the exigencies of the Union," their work to be subject to the approval of Congress and the several States.

On December 4, following the delegates were selected by the Legislature, and the order in which their names appear indicates the relative vote received by them. They were George Washington, Patrick Henry, Edmund Randolph, John Blair, James Madison, George Mason, and George Wythe. Washington received a unanimous vote.[1] Thomas Nelson, Jr., Isaac Zane, Meriwether Smith, Benjamin Harrison, and John Page were put in nomination and defeated.[2] The term of Governor Henry had expired on November 30, and more than a month before he had indicated a purpose tc retire from the office in the following letter:

"October 28th, 1786.

"SIR: The time for which the last assembly were pleased to elect me to the office of Governor, will

[1] Letter of Governor Randolph to Washington covering appointment.
[2] Senate Journal, December 4, 1786.

expire next month. A new election of some person to fill that place is therefore near at hand. And as a variety of circumstances concur to render retirement necessary for me, I beg you will be pleased to inform the Assembly that it is my request to them, that I may not stand in the nomination for the ensuing year. I embrace this opportunity of presenting to the Assembly my best acknowledgements for their past favours to me, assuring them of my ardent prayers, that their endeavours for the prosperity of the commonwealth may be crowned with success.

"With great respect, I am sir,

"Your most obedient servant,

"P. HENRY.

"To the Honorable SPEAKER OF THE HOUSE OF DELEGATES."

A few days before the expiration of his term the House of Delegates

"*Resolved* unanimously, that a committee be appointed to wait on his Excellency the Governor, and present him with the thanks of this House, for his prudent and upright administration, during his last appointment of Chief Magistrate of this commonwealth; assuring him, that they retain a perfect sense of his abilities in the discharge of the duties of that high and important office, and wish him all domestic happiness on his return to private life."[1]

The committee were Messrs. Nelson, Corbin, Madison, Page, Bland, Bernard Moore, and Richard Bland Lee. On the 28th they reported the following graceful reply from Governor Henry.

"GENTLEMEN: The House of Delegates have done me distinguished honor by the resolution they have been pleased to communicate to me through you; I am happy to find my endeavors to discharge

[1] Journal for November 25, 1786.

the duties of my station met with their favorable acceptance.

"The approbation of my country is the highest reward to which my mind is capable of aspiring; and I shall retire to private life highly gratified in the recollection of this instance of regard shown me by the House, having only to regret that my abilities to serve my country have come so far short of my wishes.

"At the same time that I make my best acknowledgements to the House for their goodness, I beg leave to express my particular obligations to you, gentlemen, for the polite manner in which this communication is made me." [1]

Similar resolutions were unanimously passed by the Senate on November 28, and to them a like reply was made on the 30th.[2]

In his letter declining a re-election Governor Henry stated that "a variety of circumstances concur to render retirement necessary to me." Some of these we are able to discover. His family was a large one, and his salary had not been sufficient to support it, and in addition he had purchased or located several large tracts of land. In consequence he had become embarrassed with debt,[3] and was forced to devote more of his time to his private affairs. His family consisted of eleven children, five of whom were by the last marriage, and of tender age. Several of the older had been settled in life and liberally advanced, and during the year 1786 two daughters were married—Anne to Spencer Roane on September 7, and Elizabeth to Philip Aylett in the month following. In addition, though

[1] Journal of House. [2] Journal of Senate.
[3] Letter of Spencer Roane to Mr. Wirt.

only fifty years of age, his health had greatly declined.

He determined now to remove to the county of Prince Edward, where he would be near Hampden Sidney College, and could complete the education of his younger sons.

Spencer Roane, who married Anne Henry, had served in the Legislature and Council with Governor Henry, and given promise of the distinction which he afterward attained as a member of the Court of Appeals. Upon the marriage of this daughter her father wrote her the following letter, which may well challenge comparison with any similar production in the language.

"My Dear Daughter: You have just entered into that state which is replete with happiness or misery. The issue depends upon that prudent, amiable, uniform conduct, which wisdom and virtue so strongly recommend on the one hand, or on that imprudence which a want of reflection or passion may prompt on the other.

"You are allied to a man of honor, of talents, and of an open, generous disposition. You have, therefore, in your power all the essential ingredients of happiness: it cannot be marred, if you now reflect upon that system of conduct which you ought invariably to pursue—if you now see clearly the path from which you will resolve never to deviate. Our conduct is often the result of whim or caprice—often such as will give us many a pang, unless we see beforehand what is always the most praiseworthy, and the most essential to happiness.

"The first maxim which you should impress upon your mind is never to attempt to control your husband, by opposition, by displeasure, or any other

mark of anger. A man of sense, of prudence, of warm feelings, can not, and will not, bear an opposition of any kind, which is attended with an angry look or expression. The current of his affections is suddenly stopped; his attachment is weakened; he begins to feel a mortification the most pungent; he is belittled in his own eyes; and be assured the wife who once excites those sentiments in the breast of a husband, will never regain the high ground which she might and ought to have retained. When he marries her, if he be a good man, he expects from her smiles, not frowns; he expects to find her one who is not to control him—not to take from him the freedom of acting as his own judgment shall direct, but one who will place such confidence in him, as to believe that his prudence is his best guide. Little things, that in reality are mere trifles in themselves, often produce bickerings, and even quarrels. Never permit them to be a subject of dispute; yield them with pleasure, with a smile of affection. Be assured one difference outweighs them all a thousand, or ten thousand times. A difference with your husband ought to be considered as the greatest calamity—as one that is to be most studiously guarded against; it is a demon which must never be permitted to enter a habitation where all should be peace, unimpaired confidence, and heartfelt affection. Besides, what can a woman gain by her opposition or her indifference? Nothing. But she loses everything; she loses her husband's respect for her virtues, she loses his love, and with that, all prospect of future happiness. She creates her own misery, and then utters idle and silly complaints, but utters them in vain.

"The love of a husband can be retained only by the high opinion which he entertains of his wife's goodness of heart, of her amiable disposition, of the

sweetness of her temper, of her prudence, of her devotion to him. Let nothing upon any occasion ever lessen that opinion. On the contrary, it should augment every day; he should have much more reason to admire her for those excellent qualities which will cast a lustre over a virtuous woman, whose personal attractions are no more.

"Has your husband stayed out longer than you expected? When he returns, receive him as the partner of your heart. Has he disappointed you in something you expected, whether of ornament, or furniture, or any convenience? Never evince discontent; receive his apology with cheerfulness. Does he, when you are housekeeper, invite company without informing you of it, or bring home with him a friend? Whatever may be your repast, however scanty it may be, however impossible it may be to add to it, receive them with a pleasing countenance, adorn your table with cheerfulness, give to your husband and to your company a hearty welcome; it will more than compensate for every other deficiency; it will evince love to your husband, good sense in yourself, and that politeness of manners which acts as the most powerful charm. It will give to the plainest fare a zest superior to all that luxury can boast. Never be discontented on any occasion of this nature.

"In the next place, as your husband's success in his profession will depend upon his popularity, and as the manners of his wife have no little influence in extending or lessening the respect and esteem of others for her husband, you should take care to be affable and polite to the poorest as well as the richest. A reserved haughtiness is a sure indication of a weak mind and an unfeeling heart.

"With respect to your servants, teach them to respect and love you, while you expect from them a reasonable discharge of their respective duties.

Never tease yourself, or them, by scolding; it has no other effect than to render them discontented and impertinent. Admonish them with a calm firmness.

"Cultivate your mind by the perusal of those books which instruct while they amuse. Do not devote much of your time to novels; there are a few which may be useful and improving in giving a higher tone to our moral sensibility; but they tend to vitiate the taste, and to produce a disrelish for substantial intellectual food. Most plays are of the same cast, they are not friendly to the delicacy which is one of the ornaments of the female character. History, geography, poetry, moral essays, biography, travels, sermons, and other well-written religious productions, will not fail to enlarge your understanding, to render you a more agreeable companion, and to exalt your virtue. A woman devoid of rational ideas of religion, has no security for her virtues; it is sacrificed to her passions, whose voice, not that of God, is her only governing principle. Besides, in those hours of calamity to which families must be exposed, where will she find support, if it be not in the just reflections upon that all-ruling Providence which governs the universe, whether inanimate or animate?

"Mutual politeness between the most intimate friends, is essential to that harmony which should never be once broken or interrupted. How important, then, is it between man and wife? The more warm the attachment, the less will either party bear to be slighted, or treated with the smallest degree of rudeness or inattention. This politeness, then, if it be not in itself a virtue, is at least the means of giving to real goodness a new lustre; it is the means of preventing discontent and even quarrels; it is the oil of intercourse, it removes asperities, and gives to everything a smooth, an even, and a pleasant movement.

"I will only add, that matrimonial happiness does not depend upon wealth; no, it is not to be found in wealth; but in minds properly tempered and united to our respective situations. Competency is necessary. All beyond that point is ideal. Do not suppose, however, that I would not advise your husband to augment his property by all honest and commendable means. I would wish to see him actively engaged in such a pursuit, because engagement, a sedulous employment, in obtaining some laudable end, is essential to happiness. In the attainment of fortune, by honorable means, and particularly by professional exertion, a man derives particular satisfaction, in self-applause, as well as from the increasing estimation in which he is held by those around him.

"In the management of your domestic concerns, let prudence and wise economy prevail. Let neatness, order, and judgment be seen in all your different departments. Unite liberality with a just frugality; always reserve something for the hand of charity; and never let your door be closed to the voice of suffering humanity. Your servants, in particular, will have the strongest claim upon your charity; let them be well fed, well clothed, nursed in sickness, and let them never be unjustly treated."

CHAPTER XXXV.

UNITED STATES CONSTITUTION.—1787-88.

Mr. Henry Declines the Appointment to the Federal Convention.—Washington with Difficulty Prevailed on to Attend.—Important Political Events in the North and West Demonstrating the Weakness of the Confederation.—England and Spain Expecting a Dissolution of the Union.—Meeting of the Convention.—The Plan of Government Proposed by the Virginia Delegates.—The Constitution the Result of Compromises.—Washington Sends Mr. Henry a Copy.—His Reply.—Meeting of Virginia Legislature.—Anxiety as to Mr. Henry's Attitude Toward the Proposed Constitution.—He Declares for Amendments.—He Shapes the Action of the Assembly in Calling a Convention.—Remarkable Exhibition of His Power in Debate, in Defeating the Proposal to Repeal Laws in Conflict with the British Treaty.—Carries Resolutions as to the Mississippi.—Action as to Paper Money and Tariff on Liquors, etc.—Mr. Henry Returns to the Practice of Law.—Discussion of the Federal Constitution.—Position of Washington.—Action of the First State Convention which Met.

THE election of Mr. Henry as a deputy to the Constitutional Convention after his declared intention to retire from public life, was a remarkable attestation of the appreciation in which his talents were held by his countrymen. This was further evidenced by the following letter of Governor Randolph, who, as his successor in office, enclosed him a copy of the act and of his appointment:

"RICHMOND, VA., December 6, 1786.

"SIR: Under the sanction of the enclosed act and resolution, I am officially to request what, as a

citizen, I most sincerely wish, your presence at the federal convention at Philadelphia. From the experience of your late administration, you must be persuaded that every day dawns with perils to the United States. To whom, then, can they resort for assistance with firmer expectation, than to those who first kindled the Revolution? In this respectable character you are now called upon by your country. You will therefore pardon me for expressing a fear that the neglect of the present moment may terminate in the destruction of Confederate America. I have the honor to be, &c.

"EDMUND RANDOLPH.

"TO PATRICK HENRY, ESQ."

To this Mr. Henry replied:

"PRINCE EDWARD, Feby. 13, 1787.

"SIR: Your Excellency's favor accompanying the resolution and act of the Assembly, for appointing commissioners for this State to meet with others from the United States, at Philadelphia, in May next, for the purpose therein mentioned, did not reach me until very long after its date, or I should have acknowledged it sooner. And it is with much concern that I feel myself constrained to decline acting under this appointment, so honorable to me from the objects of it as well as the characters with whom I am joined. I have judged it my duty to signify this to your Excellency by the first opportunity, in order, as much as possible, to prevent the loss of time in making another appointment.

"With the highest regard, I am, sir,

"Your Excellency's most obedient
and very humble servant.

"P. HENRY.

"To His Excellency, THE GOVERNOR."

This letter did not disclose the reasons why Mr. Henry felt constrained to decline this most honorable appointment. The Governor must have gotten them in answer to another appeal, as the following letter to Mr. Madison indicates:

"RICHMOND, March 1, 1787.

"DEAR SIR: The documents to be forwarded to you in my public letter will prove the truth of your suspicion that the occlusion of the Mississippi to Virginia would throw the western settlers into an immediate state of hostility with Spain. If the subject be canvassed, it will not be sufficient to negative it merely; but a negative with some emphasis can alone secure Mr. Henry to the objects of the convention at Philadelphia. I have essayed every means to prevail on him to go thither. But he is peremptory in refusing, as distressed in his private circumstances. General Washington will be pressed again and again; but I fear ineffectually. My present office is replete with employment." [1]

This letter gave Mr. Madison much concern, as he not only valued Mr. Henry's services, but feared the consequences of his eventual opposition to the work of the Convention. He wrote to Washington on the 18th of the month:

"I hear from Richmond, with much concern, that Mr. Henry has positively declined his mission to Philadelphia. Besides the loss of his services on that theatre, there is danger, I fear, that this step has proceeded from a wish to leave his conduct unfettered on another theatre, where the result of the convention will receive its destiny from his omnipotence." [2]

[1] Edmund Randolph, by Conway, p. 65.

[2] Correspondence of the Revolution, iv., 168.

On the next day he wrote to Jefferson, in Paris, an account of the situation, and added:

"But although it appears that the intended sacrifice of the Mississippi will not be made, the consequences of the intention and the attempt are likely to be serious. I have already made known to you the light in which the subject was taken by Virginia. Mr. Henry's disgust exceeds all measure, and I am not singular in ascribing his refusal to attend the convention to the policy of keeping himself free to combat or espouse the result of it, according to the result of the Mississippi business, among other circumstances." [1]

On March 25, he replied to Governor Randolph:

"The refusal of Mr. Henry to join in the task of revising the Confederation is ominous; and the more so, I fear, if he means to be governed by the event which you conjecture." [2]

In view of this estimate of Mr. Henry, as a member of the proposed Convention, by Governor Randolph and Mr. Madison, an estimate fully concurred in by the legislature which elected him, some of the most prominent of whom had served with him in the convention which framed the Virginia Constition, and in other deliberative bodies, it seems strange that a biographer of Mr. Madison should attribute Mr. Henry's refusal to serve, to a consciousness of inaptitude for the task.[3] Equally wide of the mark is the same author's statement that Mr. Henry was never a friend of the Federal

[1] Madison Papers, ii., 623. [2] Idem, 627.
[3] Rives's Madison, ii., 241.

cause, and had no sympathy with the objects of the proposed Convention.[1] This is disproved, not only by Mr. Madison's contemporaneous statement of his position anterior to this time, but by the fact that in the Convention of Virginia in 1788, he did not oppose an increase of Federal power, but his effort was to throw proper safeguards around the rights of the States and of the people, while vesting the general government with ample strength. Mr. Rives's doubt of Mr. Henry's sincerity is, therefore, wholly gratuitous.

Whatever may have been the reasons which prevented his attendance in Philadelphia, however, his absence from the Convention must ever be regretted. It cannot be doubted that he would have impressed himself upon its work, and at least saved much of the subsequent struggle for amendments.

The vacancy created by Mr. Henry's declining to act, was first offered to General Nelson, and next to Richard Henry Lee, and upon both of these declining, it was filled by the appointment of Dr. James McClurg.[2] Washington at first declined his appointment, which was the more remarkable as he had been one of the first and most persistent advocates of a revision of the Confederation. Fortunately his scruples were overcome by the influence of Governor Randolph and other friends, and he gave the weight of his great name, and the wisdom of his counsels, to the important assembly which was called into existence by Virginia.

The documents referred to in the letter of Governor Randolph to Mr. Madison of March 1, were communications from Kentucky, including an inter-

[1] Rives's Madison, ii., 239–241. [2] Edmund Randolph, by Conway, 66, 68.

cepted letter of Thomas Green to the Governor of Georgia, denouncing the supposed action of Congress, and disclosing a design to make war upon the Spanish possessions on the Mississippi under the leadership of General George Rogers Clark. Governor Randolph at once took steps to prevent this, and General Clark was required to explain his action at St. Vincennes in seizing Spanish property, and his connection with the proposed expedition against the Spaniards. This he did by disclaiming all intention to make war on Spain, and all knowledge of the contents of Green's letter.[1]

The excitement in the Mississippi Valley was greatly quieted by the spirited action of the Virginia Legislature, and by the Spanish authorities allowing General James Wilkinson, now a resident of Kentucky, to trade freely with New Orleans by the way of the river.

This dangerous man had obtained this privilege by secretly agreeing to aid the Spanish Government to possess itself of the Mississippi Valley. He agreed "to deliver up Kentucky into his Majesty's hands," and his plan was to induce the inhabitants to declare themselves independent of the United States, on the ground of lack of protection by them, and then to ally themselves with Spain, on condition of being allowed the free use of the river. Gardoqui approached John Brown, the Kentucky commissioner to Congress, on the subject,[2] and sent Dr. James White, a member of Congress, to Sevier with a similar proposal for Tennessee.

[1] MS. Records in State Archives. [2] Butler's Kentucky, 171-72. See The Political Beginnings of Kentucky, by John Mason Brown, which gives Brown's letter about this, and is an able defence of his conduct regarding it. Also The Spanish Conspiracy, a reply by T. M. Green.

Sevier, though then a proscribed man for the part he had taken in organizing the State of Franklin, was no traitor to his country, and he at once sent an express to Colonel Shelby, of Kentucky, warning him of the plot to carry the West into the embrace of Spain. Shelby, with the aid of Colonel Thomas Marshall, Judge Muter, and other patriots, was able to defeat the design of Wilkinson in Kentucky.[1] But had not Congress, alarmed by the threatened danger, abandoned the effort to conclude the Spanish treaty with a provision for the occlusion of the Mississippi, there can be little doubt that the people of Kentucky and Tennessee would have declared themselves independent of the United States, and probably in doing so carried with them the Southern States.[2]

Not only the intense excitement which was aroused in the South and West, but the serious dangers which threatened them at home, finally determined the Northern States to abandon the proposed Spanish treaty, and endeavor to strengthen the Union. During the year 1786 a strong spirit of agrarianism manifested itself in New England, and threatened to overturn all government. It was sought to annihilate all debts, and issue paper money, which should be legal tender in all transactions.

In Rhode Island the government was virtually controlled by this agrarian spirit, while in Massachusetts, Connecticut, Vermont, and New Hampshire it showed considerable strength. The most

[1] An interesting account is given of the traitorous designs of General Wilkinson in chapter vii. of The Advance Guard of Civilization, by James R. Gilmore.

[2] See opinion of Jefferson, Curtis's History of Constitution, i., 321.

dangerous manifestation was in Massachusetts. There the movement took the shape of resistance to the judicial authorities, and a regular rebellion broke out headed by an old soldier, Daniel Shays. The insurgents undertook to prevent the courts from sitting. By the firmness of Governor James Bowdoin the rebellion was finally put down by State troops in February, 1787. Congress looked on utterly helpless to aid the State, had it been necessary to do so in order to preserve her government. There can be little doubt that the British authorities were in communication with the insurgents, and endeavored by offers of protection to win them to that government.[1] Thus Spain and England, expecting a dissolution of the Union, were plotting to divide its territory between themselves, and were attempting to hasten the expected end of the experiment of republican government in America. But out of the nettle, danger, the flower, safety, was plucked. The multiplied dangers which beset the country overcame the opposition to a reform of the Constitution, except in Rhode Island, and delegates from twelve States met in Philadelphia in the convention, which commenced its sessions May 25, 1787. Sitting with closed doors, the difficulties with which this celebrated body had to contend could not be appreciated by the country till years afterward, when its Journal and notes of its debates were published. Washington was chosen its presiding officer, and by his wisdom, moderation, and exalted patriotism, was most efficient in leading the body to the happy

[1] MS. Letter of Edward Carrington, Member of Congress, to Governor Randolph, December 8, 1786, in State Archives.

issue which closed their labors, on September 17.

The business of the Convention was opened by the proposal of an outline of government, agreed on by the Virginia delegation and presented through Governor Randolph. Its distinguishing feature was a proposal to set aside the articles of confederation, and establish instead, "a National government, consisting of a supreme legislative, executive, and judiciary."[1] Upon this basis the Constitution was constructed and the new and difficult problem was attempted to be solved, of framing a supreme federal government, acting directly upon the people, without unduly restricting the sovereignty of the several States. The instrument framed was a succession of compromises between the conflicting views of patriotic men, who labored to construct a government which would save to posterity the results of the Revolution, in such eminent danger of being utterly lost. But the work, when completed, was probably not entirely satisfactory to any one of the leading men of the body. Several of these left the Convention after the principles of the instrument were determined on, and three of those present on the last day refused to sign it, Elbridge Gerry, George Mason, and Edmund Randolph. Washington, Franklin, Hamilton, and Gouverneur Morris, have left on record the fact that the Constitution was not approved in all of its parts by them. Doubtless, Franklin spoke the sentiments of the overwhelming majority of the Convention, when he said on the last day: "Several parts of this Constitution I do

[1] Journal of Convention for May 30, 1787. The word "National" was stricken out by a unanimous vote, June 20.

not at present approve, but I am not sure I shall never approve them. It astonishes me to find this system approaching so near to perfection. I consent to this Constitution because I expect no better, and because I am not sure that it is not the best. The opinions I have had of its errors I sacrifice to the public good."

There can be little doubt that the ordinance of Congress for the government of the northwestern territory, which prohibited slavery therein, and was adopted July 13, 1787, had much to do in bringing the work of the Convention to its issue.

Upon returning to Mount Vernon, Washington enclosed copies of the Constitution to several of the prominent men of the country, among them to Mr. Henry. The following accompanying letter shows his anxiety for its adoption, though not all he could wish,[1] and his solicitude to number Mr. Henry among its advocates.

"MOUNT VERNON, 24 September, 1787.

"DEAR SIR: In the first moment after my return, I take the liberty of sending to you a copy of the constitution, which the federal convention has submitted to the people of these States. I accompany it with no observations. Your own judgment will at once discover the good and the exceptionable parts of it; and your experience of the difficulties, which have ever arisen when attempts have been made to reconcile such a variety of interest and local prejudices, as pervade the several States, will render explanation unnecessary. I wish the consti-

[1] In a letter to Ed. Randolph, January 8, 1778, in Writings of Washington, ix., 297, he wrote, "There are some things in the new form, I will readily acknowledge, which never did, and I am persuaded never will, obtain my cordial approbation."

tution, which is offered, had been more perfect; but I sincerely believe it is the best that could be obtained at this time. And, as a constitutional door is opened for amendments hereafter, the adoption of it, under the present circumstances of the Union, is in my opinion desirable.

"From a variety of concurring accounts it appears to me, that the political concerns of this country are in a manner suspended by a thread, and that the convention has been looked up to, by the reflecting part of the community, with a solicitude that is hardly to be conceived; and, if nothing had been agreed on by that body, anarchy would soon have ensued, the seeds being deeply sown in every soil. I am, &c.,

"GEO. WASHINGTON.

"TO PATRICK HENRY, ESQ."

It was under the strongest sense of duty, and with the greatest pain, that Mr. Henry felt constrained to pen the following reply to the man he had so long admired and revered.

"RICHMOND, October 19th, 1787.

"DEAR SIR: I was honor'd by the Rec^{t} of your Favor together with a Copy of the proposed federal constitution, a few days ago, for which I beg you to accept my Thanks. They are also due to you from me as a Citizen, on account of the great Fatigue necessarily attending the arduous Business of the late Convention.

"I have to lament that I cannot bring my mind to accord with the proposed Constitution. The Concern I feel on this account is really greater than I am able to express. Perhaps mature Reflections may furnish me Reasons to change my present Sentiments into a Conformity with the opinions of

those personages for whom I have the highest Reverence. Be that as it may, I beg you will be persuaded of the unalterable Regard & attachment with which I ever shall be,

" dear Sir,
" Your obliged & very
" humble Servant,
" P. HENRY.

" GENL. WASHINGTON."

This letter was written a few days after the meeting of the Legislature, to which Mr. Henry had been elected as a delegate from Prince Edward County. It shows that he was fully alive to the importance of the great question upon which the country was now called upon to act, and was giving it his deepest thought, without having arrived at a definite conclusion. He was watched with great solicitude by the friends of the new system.[1] On October 24, Madison wrote from New York to Jefferson at Paris, enclosing a copy of the Constitution, and forecasting its prospects. He said: " The part which Mr. Henry will take is unknown here. Much will depend on it. I had taken it for granted, from a variety of circumstances, that he would be in the opposition, and still think that will be the case. There are reports, however, which favor a contrary supposition." On November 1, he adds, that a letter just received from Mr. A. Stuart, informs him that, " Mr. Henry, General Nelson, W. Nelson, the family of Cabells, St. George Tucker, John Taylor, and the Judges of the General Court, except P. Carrington, are opposed

[1] See letter of Washington to Madison, October 10, 1787, and reply of Madison, October 18.

to it."[1] The reply of Mr. Jefferson showed that he was also among the objectors to the new system.[2]

On October 25, Mr. Corbin introduced resolutions for the call of a convention to ratify or reject the proposed Constitution, according to the recommendation of Congress. He spoke with approbation of the new plan. When he sat down Mr. Henry rose to oppose the resolution as it then stood. "He did not question," he said, "the propriety or necessity of calling a convention. No man was more truly federal than himself. But he conceived that if this resolution was adopted, the convention would only have it in their power to say that the new plan should be adopted, or rejected, and that, however defective it might appear to them, they would not be authorized to propose amendments. There were errors and defects in the Constitution, and he therefore proposed the addition of some words to Mr. Corbin's resolutions, by which the power of proposing amendments might be given." Mr. Corbin defended his resolutions, and Mr. George Nicholas seconded his defence. "He warmly reprobated Mr. Henry's amendment, because it would give the impression that the Virginia Assembly thought amendments might be made to the new government, whereas he believed there was a decided majority in its favor. At the same time he did not deny the right of the convention to propose amendments." Colonel Mason, who had just taken his seat in the House, rose to second Mr.

[1] Madison's Works, i., 356 and 357.

[2] Jefferson to Madison, December 20, 1787, Jefferson's Works, ii., 329, etc.

Henry's motion. "He told the committee that he felt somewhat embarrassed at the situation in which he then stood. He had been honored with a seat in the Federal Convention, and all knew that he had refused to subscribe to their proceedings. This might excite some surprise; but it was not necessary at that hour, he said, to make known his reasons. At a proper season they should be communicated to his countrymen. He would, however, declare that no man was more completely federal in his principles than he was. That from the east of New Hampshire, to the south of Georgia, there was not a man more fully convinced of the necessity of establishing some general government. That he regarded our perfect union as the rock of our political salvation. But that he had considered the new Federal Government according to that measure of knowledge which God had given him. That he had endeavored to make himself master of the important subject; that he had deeply and maturely weighed every article of the Constitution, and with every information which he could derive, either from his own reflection or the observations of others, he could not approve it." He said, "I thought it wrong, Mr. Chairman—I thought it repugnant to our highest interests—and if with these sentiments I had subscribed to it, I might have been justly regarded as a traitor to my country. I would have lost this hand before it should have marked my name to the new government." John Marshall spoke next. He thought Mr. Corbin's resolutions improper for the reason given by Mr. Henry. "He thought Mr. Henry's amendment improper for the reasons given by Mr. Nicholas.

He wished that the future convention should have the fullest latitude in their deliberations, but he thought, with Mr. Nicholas, that the people should have no reason to suppose that their legislature disapproved the new Federal Government.—Therefore he proposed this resolution, 'that the proceedings of the Federal Convention, as transmitted to the General Assembly through the medium of Congress, ought to be submitted to a convention of the people for full and free investigation and discussion.'" This was adopted without opposition.[1]

Notwithstanding the position thus taken by the House, when a bill was introduced November 30, to provide for the expenses of the Convention, Mr. Henry moved and carried, a provision for paying the expenses of any delegates the body might send to sister States with a view to consulting as to proper amendments, and of delegates to another Federal Convention, if one was determined on.[2]

This was decidedly ominous to the advocates of immediate adoption, and we find Mr. Madison writing to Jefferson, December 9: "Mr. Henry is the great adversary who will render the event precarious. He is, I find, with his usual address, working up every possible interest into a spirit of opposition."

Mr. Madison had good reason to fear the power of Mr. Henry. When the Legislature met, and the Constitution was communicated to it by the Governor, it was approved by nearly every member. A correspondent of General Washington from Rich-

[1] This account of the debate is taken from a letter from Petersburg, dated November 1, 1787, printed in the Pennsylvania Packet, November 10, 1787. [2] Journal of House, 77; Hening, xii., 463.

mond wrote him, that with the exception of Mr. Henry, who was non-committal, he had not met with an opponent, though making diligent inquiry.[1] But by December the same correspondent[2] wrote, that it was doubtful whether it had any longer a majority of the body in its favor.[3] And Mr. Henry carried his proposals looking to previous amendments by fifteen majority.[4]

Mr. Henry had attended the House at its meeting, and at once assumed his wonted position of leader. He was placed upon the standing committees of Propositions and Grievances, Commerce, Privileges and Elections, and Courts of Justice, of which last he was chairman; and was made to bear his full share of labor on committees appointed to consider matters not referred to the standing committees. One of the most remarkable exhibitions of his power in debate occurred during this session, and it is believed to be without a parallel in the history of legislative bodies.

On November 30, 1785, the American Minister at London demanded the immediate evacuation of the northwestern posts in accordance with the stipulations of the treaty of peace. To this demand the British Secretary of State replied, alleging the non-fulfilment on the part of several of the United States of some of the articles binding on them, particularly in the matter of impediments to the recovery of debts due British subjects. The correspondence was referred to John Jay, Secretary for Foreign Affairs, who on October 13, 1786, reported, sustaining the position of the British Government in part,

[1] Rives's Madison, ii., 535.
[2] Doubtless Bushrod Washington.
[3] Rives's Madison, ii., 537.
[4] Idem, 538.

and holding that some of the States had broken the treaty before the first violation by Great Britain.[1] On March 21, 1787, Congress acted upon this report, and recommended to the several States the repeal of all acts repugnant to the stipulations of the treaty. When this communication was read in the Virginia House of Delegates, a resolution was presented to carry it into effect, patronized by Colonel George Mason and Mr. George Nicholas, men of ability.

The bill provided for the repeal of all acts repugnant to the treaty of peace, but was really aimed at the laws which prevented the recovery of British debts. It contained a proviso suspending its effect until the other States had passed similar acts. Mr. Henry earnestly opposed the bill in this form, and moved to amend by making the repeal depend upon the previous compliance with the treaty by Great Britain. After a warm debate running through four days, Mr. Henry's amendment was defeated by a vote of forty-two ayes to seventy-five noes, and the resolution was adopted on November 17, by a vote of seventy-two to forty-two. On December 3, the bill ordered in pursuance of the resolution came up for consideration. Mr. Henry renewed his proposition as an amendment to the bill. His previous defeat aroused him to greater exertion and brought out his reserved force, which was equal to any occasion. In the face of the former recorded vote of the House, he now carried his amendment by a vote of eighty to thirty-one, turning the majority of thirty against him into a majority of forty-nine in his favor, and including among the captives at his chariot-wheels, Mr. Nicholas, the leading champion

[1] Secret Journal of Congress, iv., 186–287.

in debate of the original resolutions, who owned himself convinced by the arguments that had been used.[1]

It is worthy of note that Mr. Jefferson, when Secretary of State, reviewed the whole subject, and clearly demonstrated the errors of Jay's report, and the prior infractions of the treaty by Great Britain,[2] thus sustaining Mr. Henry's position. As was to be expected, Mr. Henry brought up the matter of the Mississippi. On November 12, the Journal contains the following resolutions, evidently from his pen, which were adopted in Committee of the Whole:

"*Resolved*, That the free use and navigation of the western streams and rivers of this Commonwealth, and of the waters leading to the sea, do, of right, appertain to the citizens thereof, and ought to be considered as guaranteed to them by the laws of God and nature, as well as by compact.

"*Resolved*, That every attempt in Congress, or elsewhere, to barter away such right, ought to be considered as subversive of justice, good faith, and the great foundations of moral rectitude, and particularly destructive of the principles which gave birth to the late revolution, as well as strongly repugnant to all confidence in the Federal Government, and destructive to its peace, safety, happiness, and duration.

"*Resolved*, That a committee ought to be appointed to prepare instructions to the delegates representing this State in Congress to the foregoing import, and to move that honorable body to pass an

[1] Journal, 51, 52, 79, 80; Rives's Madison, ii., 539, note; Madison's Papers, ii., 658.

[2] Jefferson to Hammond, May 29, 1792, Jefferson's Works, iii., 365.

act acknowledging the rights of this State, and that it transcends their power to cede or suspend them; and desiring the said delegates to lay before the General Assembly such transactions as have taken place respecting the cession of the western navigation."

On the committee appointed to prepare the instructions, Mr. Henry's name is second to the chairman, Mr. Thurston, who was chairman of the Committee of the Whole, and probably for that reason was made chairman of this.

It is to the honor of Virginia that this Assembly put its mark of disapproval upon all effort to renew the issues of irredeemable paper money, which was giving so much trouble to some of the Northern States. On November 3, the House came to several resolutions upon the subject, one of which recited "that an emission of paper currency would be ruinous to trade and commerce, and highly injurious to the good people of this Commonwealth." The fact that the Journal shows a unanimous vote, disproves the charge that Mr. Henry was an advocate for such an emission.[1]

Another measure was advocated at this session by Mr. Henry, for which he was criticised by Mr. Madison, and in regard to which he found his friend, George Mason, was his opponent. It was the prohibition of the importation of distilled liquors, cheese, butter, pork, beef, tallow, and tallow candles, and the imposition of a duty on iron, coal, hemp, and cordage, imported into the State.[2]

[1] Washington's Writings, ix., 268.

[2] Journal, 31, 47; Madison's Works, i., 366; Correspondence of the Revolution, iv., 191.

Notwithstanding Mr. Henry's position as to free trade upon the close of the war, when the country was bare of the necessities of life, he evidently believed now that it was wise to stimulate the home production of the necessary articles embraced in the above list. In this he showed a practical statesmanship, which sought the best for his State under every change of circumstances, and was not the slave of any theory of political economy. Mr. Henry did not carry his proposal, but the body increased the duties on spirituous liquors and many other articles,[1] the result, no doubt, of a compromise of conflicting views.

Mr. Henry obtained a leave of absence from the body on November 17, for a few days, and on December 22, for the remainder of the session. While in Richmond he wrote the following hurried notes to Mrs. Aylett, which are interesting as furnishing glimpses of his domestic life:

"RICHMOND, Oct. 28, 1787.

"MY DEAR BETSEY: I was sorry to hear by M^r. Aylett that you were unwell. I hope the cool weather may be the means of your getting better. Your mamma and sister Fontaine are always talking of you & wondering we never could get a letter from any of you. Indeed, it is not strange that the difficulties which Minnis has thrown in y^r way has taken up your mind. His conduct is such as would surprise everybody not acquainted with him. However, you will remember that Providence has ordered to all a portion of suffering & uneasiness in this world, that we may think of preparing for a better. I hope my dear child will keep up her

[1] Hening, Statutes at Large, xii., 412.

spirits thro' every trial. Pray let us hear from you. I am, my Dear Betsey,

"Yr. ever affcte. Father,

"P. HENRY.

"To Mrs. ELIZABETH AYLETT,
"King William."

"RICHMD., Decr. 12th, 1787.

"MY DEAR BETSEY: I did intend to have the pleasure of seeing you, some time during the Assembly, but such has been & now is the hurry of business here, that I fear it will not be in my power. I have been obliged to go up once to try to get some house to winter in. At present your mamma & all our family live at one fire, & have not one out-house that will assist. We expect a house something better soon, & hope to live a little more comfortably. Major Minnis's unkindness will doubtless put you to great straits; but you must learn to bear everything with patience. Experience will teach you that this world is not made for complete happiness. Yr. mamma and sister Fontaine often speak of you. I hope we shall see you & Mr. Aylett as soon as you can make it convenient. Adieu my dear child.

"I am yr affte. Father,

"P. HENRY.

"To Mrs ELIZABETH AYLETT, King William."

On returning to Prince Edward, Mr. Henry at once resumed the practice of law, which had been discontinued since 1774. Judge Winston, in a letter to Mr. Wirt, gives the following account of how he was induced to take this step. Says the writer:

"He had never been in easy circumstances; and soon after his removal to Prince Edward County,

conversing with his usual frankness with one of his neighbors, he expressed his anxiety under the debts which he was not able to pay; the reply was to this effect: 'Go back to the bar; your tongue will soon pay your debts. If you will promise to go, I will give you a retaining fee on the spot.' This blunt advice determined him to return to the practice of the law, which he did in the beginning of 1788; and during six years he attended regularly the district courts of Prince Edward and New London." [1]

As the first general retainer charged in 1788 was £5, to Colonel John Holcombe, of whom Mr. Henry had bought his Prince Edward lands, it is quite certain that he was the neighbor of whom this incident is related. This gentleman had received in exchange for two tracts containing about 1,700 acres, and valued at £2,111, several smaller tracts, two lots in Richmond, and several slaves, requiring but little money to be paid by Mr. Henry to make up the price agreed on.

From the time of its publication the proposed Federal Constitution excited the most earnest discussion. The dignity of the body proposing it, and the great merits of the plan, caused it to be received at first with general favor. But careful examination discovered serious defects in the instrument, which many of the leading statesmen of the country determined to remedy by amendments before adoption. Upon this line parties were formed. It is beyond doubt that the great leaders on either side were actuated by purely patriotic motives. They only differed as to what was best for their country.

[1] MS.

It was not long, however, before party feeling excited suspicions of the motives of opponents.

The correspondence of Madison and Edward Carrington with Jefferson shows, that the dread of Mr. Henry's powers excited in them fears as to the motives which actuated him. He was suspected of designing a dissolution of the Union, and the formation of a Southern Confederacy.[1] This he took occasion explicitly to deny on the floor of the Virginia convention.[2]

The elections in Virginia for the Convention were fixed for March, 1788, and were held by the counties on their court days. At the February session of the County Court of Prince Edward, Mr. Henry addressed the people, declaring himself a candidate for their suffrages. An immense concourse was present, and listened to his powerful exposure of the defects of the proposed Constitution. There was no reply. The Rev. John Blair Smith, the eloquent president of Hampden Sidney College, about a mile distant, had determined to make a reply, but he was prevented from being present by the death of a member of his church. He, however, sent a member of his family to take down the speech in shorthand. A few days afterward an exhibition of public speaking among the students occurred at the college. A large audience was present, among them Mr. Henry, who as a member of the board took a keen interest in the exercises of the students. To his great surprise one of the students delivered what was intended as a reproduction of his address on

[1] Madison to Jefferson, Madison's Works, i., 388; Ed. Carrington to Jefferson, Bancroft's History of the Constitution, ii., 464–5.

[2] Elliott's Debates, iii., 57, 63, 161; Post, vol. iii.

the previous court day, and another a reply prepared by President Smith. Mr. Henry was offended by the liberty taken with him, and complained to Mr. Smith. Not being satisfied with his reply, he withdrew from attendance upon his preaching. It is probable that this occurrence caused much of the dissatisfaction with President Smith which soon afterward was manifested, and which led to his resignation the next year.[1] He seems to have manifested the intemperance of conduct into which ministers are so apt to fall who meddle with political questions. A letter to Mr. Madison, June 12, 1788, has been preserved, in which he refers him to a report of Mr. Henry's speech at Prince Edward, forwarded to Mr. Innes; and makes an attack upon Mr. Henry for his conduct during the canvass, which upon its face is baseless. He goes so far as to make a fling at Mr. Henry for his advocacy of the assessment bill of 1784, in favor of which Mr. Smith himself had reported the memorial adopted by Hanover Presbytery.[2] This letter the biographer of Mr. Madison reproduces for the purpose of censuring Mr. Henry for his "electioneering industry,"[3] entirely forgetting that Mr. Madison and General Washington were active electioneerers for the adoption of the Constitution.[4] The arguments of Mr. Henry which so greatly disturbed these nervous critics, Messrs. Smith and Rives, were repeated on the floor of the Convention, and may be judged of by the reader.

[1] See Foote's Sketches of Virginia, 42–3, for a full account of this incident. [2] Idem, 335–6. [3] Rives's Madison, ii., 544, note.

[4] See Letters of Madison and Washington, among them one from Madison, April 10, 1788, Madison's Works, i., 384–5.

Soon after the adjournment of the Federal Convention, Madison, Hamilton, and Jay commenced the publication of that able series of articles on the proposed Constitution, which, under the title of "The Federalist," have since become a text-book for the political student. Richard Henry Lee immediately attacked the instrument over the signature of a "Federal Farmer," and the press of the country for months teemed with discussions *pro* and *con* of more or less ability. The publication, however, which had the greatest effect was a letter of Washington to Charles Carter, December 14, 1787. He had witnessed the great difficulty of bringing the Convention at Philadelphia to any conclusion, and he was keenly alive to the danger of disunion under the articles of confederation. He wrote:

"There is no alternative between the adoption of the constitution and anarchy. Should one State (meaning Virginia), however important it may conceive itself to be, or a minority of the States, suppose that they can dictate a constitution to the majority, unless they have the power of administering the *ultima ratio*, they will find themselves deceived. Opposition to it is addressed more to the passions than to the reason. If another federal convention is attempted, the members will be more discordant than the last. They will agree upon no general plan. The constitution or disunion is before us. If the first is our choice, a constitutional door is open for amendments in a peaceable manner, without tumult or disorder."[1]

The Convention of Pennsylvania was the first to meet, but a determined opposition to adoption with-

[1] Bancroft's History of the Constitution, ii., 297.

out amendments, prevented its final action from November 21, to December 12, 1787. In the meantime the Convention of Delaware, though meeting later, anticipated the action of Pennsylvania by adopting unanimously the proposed plan on December 6. The equality of representation in the Senate caused this small State to accept, without hesitation, what the larger States were slower to receive. In the Pennsylvania Convention the minority, led by Robert Whitehill, and acting in concert with the leaders of the opposition in Virginia, offered a series of amendments which were rejected by forty-six to twenty-three, and were not allowed to be entered on the Journal. The unamended plan was adopted by the same vote. James Wilson, a man of great force, and a member of the Federal Convention, controlled the body and effected the result.

On December 18, the New Jersey Convention, following the example of Delaware, voted unanimously for ratification, and this was followed, January 2, 1788, by similar action in the feeble State of Georgia. On January 9, the Convention of Connecticut, under the lead of Oliver Ellsworth and Roger Sherman, who had represented the State at Philadelphia, ratified by a vote of one hundred and twenty-eight to forty.

The Convention of Massachusetts was looked to with great anxiety. It was one of the largest States, and second to none, save Virginia perhaps, in importance. The motives which influenced the smaller and weaker States had no effect upon this great commonwealth. The Convention, which met January 14, was very evenly divided, with a ma-

jority against ratification. After a very full discussion, the Federalists, led by Theophilus Parsons and Fisher Ames, fell upon the plan of themselves offering amendments to be urged after ratification. These were based upon those contained in the remonstrance of the minority of the Pennsylvania Convention, and the objections urged by Richard Henry Lee, and by the opponents on the floor of the Convention. They were put into "a harmless form," as was expressed by a correspondent of Mr. Madison. John Hancock, the president of the body, who was in doubt how to act, was induced to offer them, and Samuel Adams, who had not been satisfied with the plan, and had been a silent member of the Convention, gave them his approval.[1] By this management the Convention was induced to adopt the Constitution February 6, by a vote of one hundred and eighty-seven to one hundred and sixty-eight.[2]

The Convention of New Hampshire met in February, 1788, and a small majority against the proposed plan appeared. The Federalists, in order to gain time, and upon the pretext that it became so small a State to wait till the others had acted, proposed and carried an adjournment till June. This was done by proselyting some of the members instructed against the paper.[3]

The Convention of Maryland met in April. Washington and Madison had been active in procuring a prompt ratification in this State, and the opposition, led by Luther Martin and Samuel

[1] Madison's Works, i., 375.

[2] Idem., i., 373, 375, 376; Wells's Life of Samuel Adams, iii., Chapter lx.

[3] Madison's Works, i., 383.

Chase, was found to be in a small minority. The ratification was carried on April 26, by a vote of sixty-three to eleven. William Paca, one of the signers of the Declaration of Independence, proposed a series of amendments to be urged. They were referred to a committee which fell into a wrangle over them, and the Convention adjourned without waiting for it to report.

South Carolina was the eighth State to ratify the Constitution. Her Convention met May 13, and in it appeared as advocates of ratification the venerable Christopher Gadsden, the Rutledges, the Pinckneys, and David Ramsey, the accomplished historian. In the opposition were General Sumter, and Edanus Burke, an able man. A motion to adjourn for five months was voted down, and as an act of conciliation three or four amendments were recommended. On May 23, the motion for ratification was adopted, by a vote of one hundred and forty-nine to seventy-three.

CHAPTER XXXVI.

VIRGINIA CONVENTION.—1788.

Importance of Virginia's Action on the Proposed Constitution.—Contest for Seats in her Convention Meeting of the Body.—Intense Interest in Its Proceedings.—Mission of Colonel Oswald.—Mr. Henry's Letter to General Lamb.—Estimates of Strength of Parties.—Plan of the Anti-federalists.—Proceedings Reported in Shorthand.—Mr. Henry as the Leader of the Opposition to Immediate Ratification.—His Construction of the Constitution.—Course of the Debate.—Attacks Governor Randolph.—Scene with George Nicholas.—Mr. Henry's Greatest Speech.—Tactics of the Several Parties.—The Convention for Amendments.—Concessions of the Federalists.—Form of Ratification Proposed.—Conduct of Mr. Madison.—Mr. Henry Offers Previous Amendments.—Closing Debate.—Storm Scene.—Madison and Randolph Pledge Their Party to Subsequent Amendments.—Last Speech of Mr. Henry in the Convention.—Ratification Carried, and Mr. Henry's Amendments Urged upon Congress.—Washington's Influence Effectual.—Madison and Henry Compared.

THE meeting of the Virginia Convention was fixed for June 2. This date had been determined on by the opposition in the Legislature, in order, it was said, that the State, which had so long led the Confederacy, might be in a position to act as arbitrator between the States accepting and those rejecting the Constitution. When it met none had positively rejected it, but still Virginia was believed to hold its fate in her hands. The majority in New Hampshire had been found against ratification; it was very certain that the same would be the case in New York and North Carolina; and Rhode Island had refused

to take any part in the Federal Convention, or to call a State convention to consider its work. If the Virginia Convention refused to ratify, it was confidently believed that the ninth State, without which the plan could not go into effect, would not be obtained. This caused intense interest to be taken in its proceedings, not only within but without the State. The Convention of New York was to assemble on June 17, and that of New Hampshire was to meet again on the next day. Hamilton and Madison arranged a special express between Richmond and Concord, via Poughkeepsie where the New York Convention sat, so as to influence as much as possible the northern conventions by the news they hoped to transmit from Richmond, or if one of them ratified first, to use that to carry Virginia.[1]

In Virginia the contest for seats in the Convention had been warm. The advocates of immediate ratification had shown great tact in selecting their candidates. All citizens were eligible under the act calling the body, and they persuaded the judges and the distinguished soldiers, nearly all of whom were advocates of ratification, to offer for seats. In some cases rich men, who had been Tories, but whose money brought them influence, were selected, and by these means counties considered doubtful, and even some distinctly opposed, were carried at the polls for the party for ratification, now known as Federalists. When the result of the elections was made public, the people of the State, a majority of whom were decidedly opposed to immediate ratification, as appeared in the Legislature elected about the same time, were astonished to find that the Federalists

[1] Curtis's History of the Constitution, ii., 550–1.

claimed a majority. This had been the more easily obtained by the manner of constituting the body, the small counties in the east, which were Federal, having the same weight as the larger ones in the interior, which were anti-Federal.

A very full house assembled at the Capitol buildings [1] on the first day of the session. It was a grand assembly. Two delegates from each county and city, except Norfolk and Williamsburg, which had one each, gave a body of the imposing size of one hundred and seventy members, which contained all the most distinguished men of Virginia, except Washington, Jefferson, Richard Henry Lee, and Nelson. Jefferson was at the court of France, Lee was in Congress, Nelson was feeble and nearing his end, and Washington had determined he could best subserve the cause from Mount Vernon. As the eye wandered over the body, the spectator saw before him such a collection of men illustrious in the annals of their country, as was probably never under the same roof before. Edmund Pendleton, the venerable President of the Court of Appeals, George Wythe, the learned Chancellor, with Judges John Blair, Richard Carey, Paul Carrington, Joseph Jones, and John Tyler, represented the judiciary, and imparted their dignity to the body. Theodoric Bland, George Carrington, Samuel Jordan Cabell, George Clendenin, William Dark, William Fleming, William Grayson, James Innes, Robert Lawson, Henry Lee, of the Legion, Thomas Mathews, Stephens T. Mason, John Marshall, James Monroe, William McKee, Andrew Moore, George and Wilson Cary Nicholas, Thomas Read, Willis Riddick, John Steele,

[1] These were on northwest corner of Fourteenth and Cary Streets.

Adam Stephen, Archibald Stuart, John Stuart, Ebenezer Zane, and others, who had distinguished themselves fighting Indians and British upon almost every battle-field of the revolutionary period, represented the military which had shed such lustre upon their State. Edmund Randolph, the brilliant Governor of the State, ex-Governor Benjamin Harrison, a statesman of a high order, George Mason, the draftsman of the Virginia form of government, James Madison, so largely the architect of the Constitution to be taken in consideration, and Patrick Henry, who had led Virginia during the Revolution, were statesmen who alone would have made any deliberative body illustrious.

The interest in the deliberations of the body was intense. Not only the people of the town and neighborhood, but gentlemen from every part of the State, crowded the building in which it sat, and caused it to adjourn after its first day's session, to the Academy, the largest audience room in the city.[1] Here day after day, through the long sessions, the galleries were filled with an anxious crowd, who forgot the inconvenience of their situation in the excess of their enjoyment of the intellectual treat which was furnished them.

A want of uniformity in the amendments proposed in the several States had given great advantage to the Federalists. To remedy this, and to effect amendments previous to ratification, the op-

[1] This building was erected by Chevalier Quesnay, a Frenchman, who designed the establishment of a French-American University. It was located on the north side of Broad, between Twelfth and Thirteenth Streets, and in the square in which stands the Monumental Church. It was afterward used as a theatre, and was succeeded by a new building for that purpose, which was burnt in 1811 during a play.

position in May organized in the city of New York, where the influence of Governor Clinton prevailed, a society under the style of "Federal Republicans." General John Lamb was made chairman, and he opened at once a correspondence with the leading men in opposition in the States which had not acted. By Colonel Oswald he sent letters to Mr. Henry and Colonel Grayson, stating the object of his society, and proposing the formation of a general association to assimilate and further the views of the opposition.[1] The reply of Mr. Henry, which is dated a week after the meeting of the Convention, is most interesting, as showing the bitter disappointment he had experienced in the result of the elections, and also the policy of the opposition which had been adopted on the assembling of the body. It is as follows:[2]

"RICHMOND, June 9, 1788.

"SIR: I was honored by the receipt of your favor by the hands of Colonel Oswald, accompanying three pamphlets, for which, and for the communication resulting from a view of the whole subject matter, I give you, sir, my sincere thanks. It is matter of great consolation, to find that the sentiments of a vast majority of Virginians are in unison with those of our northern friends. I am satisfied four-fifths of our inhabitants are opposed to the new scheme of government. Indeed, in the part of this country lying south of James River, I am confident nine-tenths are opposed to it.

"And yet, strange as it may seem, the numbers in the convention appear equal on both sides, so that the majority, which way soever it goes, will be

[1] See Historical Magazine, etc., of America, for November, 1873, p. 280, for one of General Lamb's letters.

[2] Taken from Life of General John Lamb, 307.

small. The friends and seekers of power, have, with their usual subtilty wriggled themselves into the choice of the people, by assuming shapes as various as the faces of the men they address on such occasions.

"If they shall carry their point, and preclude previous amendments, which we have ready to offer, it will become highly necessary to form the society you mention. Indeed, it appears the only chance to secure a remnant of those invaluable rights which are yielded by the new plan. Colonel George Mason has agreed to act as chairman of our republican society. His character I need not describe. He is every way fit; and we have concluded to send you by Colonel Oswald a copy of the Bill of Rights, and of the particular amendments we intend to propose in our convention. The fate of them is altogether uncertain, but of that you will be informed. To assimilate our views on this great subject is of the last moment; and our opponents expect much from our dissension. As we see the danger, I think it is easily avoided.

"I can assure you that North Carolina is more decidedly opposed to the new government than Virginia. The people there seem rife for hazarding all before they submit. Perhaps the organization of our system may be so contrived as to include lesser associations dispersed through the State. This will remedy in some degree the inconveniences arising from our dispersed situation. Colonel Oswald's short stay here prevents my saying as much on the subject as I could otherwise have done. And after assuring you of my ardent wishes for the happiness of our common country, and the best interests of humanity, I beg to subscribe myself with great respect and regard,

"Sir, Your ob^{t}. h'ble Servt.

"P. HENRY.

"To GENERAL JOHN LAMB."

Colonel Grayson replied the same day in a similar strain. He said:

"Our affairs in the convention are suspended by a hair; I really cannot tell you on which side the scale will turn; the difference, I am satisfied, on the main question, will be exceedingly small indeed. . . . The opposition, upon the whole, is firm and united; there are seven or eight dubious characters, whose opinions are not known, and on whose decisions the fate of this important question will ultimately depend."[1]

On the day before, Washington, who was kept constantly advised by the Federalists, wrote to John Jay:[2]

"The sanguine friends of the constitution counted upon a majority of twenty at their first meeting, which number they imagine will be greatly increased; while those equally strong in their wishes, but more temperate in their habits of thinking, speak less confidently of the greatness of the majority, and express apprehensions of the arts that may yet be practised, to excite alarm with the members from the western district."

Henry and Grayson proved to be more accurate in their estimate of the body. But the extravagant claims of the Federalists were already used to influence the decisions of New Hampshire and New York.[3]

It was with a full knowledge of the character of

[1] Life of General John Lamb, 311.

[2] Writings of Washington, ix., 374.

[3] See letter of Tobias Lear to Washington, June 2, 1788, Correspondence of Revolution, iv., 219.

the Convention, and of the difficulties of the task before them, that the opposition entered upon its work. The plan was to expose the imperfections of the proposed Constitution, to offer amendments which would remedy those imperfections, and to insist on their adoption before Virginia's ratification.

When the body assembled, David Robertson, of Petersburg, with an assistant, both shorthand reporters, appeared to take down the debates, a thing unprecedented in the history of Virginia assemblies. Instead of being allowed to place his table in front of the Speaker, what he calls, "an ineligible seat," was all he could secure; and while some of the Federal speakers revised his report of their speeches, the opposition, regarding him as in the interest of the Federalists, refused to render him this assistance,[1] thereby doing themselves the greatest injustice. Upon his published report, that great Convention lives in history. In his record of Mr. Henry's speeches he more than once confesses his inability to follow him in his overpowering bursts of eloquence, and the incompleteness of the report which is given, attests, with the concurrent testimony of the hearers, the fact that it falls far short of doing him justice.[2] Yet we are forced to resort to it, as the most authentic record of his efforts in the celebrated contest which ensued, in which he led the forces of the opposition against the intellectual giants who advocated the immediate ratification of the Constitution.

[1] George Mason makes this statement in a subsequent letter.

[2] This is stated by both Judges Tucker and Roane in their letters to Mr. Wirt. MS.

As of old, Mr. Henry was regarded by the people as the leader on whom they relied for the protection of their rights. He was accustomed to relate an incident that happened in the courtyard of Prince Edward County just before the meeting of the convention. An old fox hunter gave him a sharp tap on the shoulder and said to him: "Old fellow, stick to the people; if you take the back track, we are gone."[1] This rough remark expressed the feeling of the great bulk of the people of Virginia, who, for nearly a quarter of a century, had been accustomed to look upon him as the invincible advocate of popular rights. Although only fifty-two years of age, ill health had given him the appearance of an old man, and this added greatly to the impressiveness of his appeals to the body. It was said that whenever he arose, a death-like silence prevailed, and the eager listeners did not fail to catch every syllable he uttered. Although his body had been affected by disease, his mental powers were as great as ever, and the deep interest he took in the subject under debate caused him to exert them to the utmost.

The accomplished Judge St. George Tucker, who attended the debates and had heard his great speech on arming the colony in 1775, in writing to Mr. Wirt of the convention of 1788, says:

"His speeches were then taken in shorthand. I do not think them accurately taken. At that time it appeared to me that Mr. Henry was sometimes as great as on the former occasion. I recollect the fine image he gave of Virginia seated on

[1] Grigsby's Convention of 1776, 152.

an eminence and holding in her hand the balance in which the fate of America was weighing. Old General Steven attempted to parodize and burlesque it, but I think he failed. The variety of arguments which Mr. Henry generally presented in his speeches, addressed to the capacities, prejudices, and individual interests of his hearers, made his speeches unequal. He rarely made a speech in that convention which Quintilian would have approved. If he soared at times like the eagle, and seemed, like the bird of Jove, to be armed with his thunder, he did not disdain to stoop like the hawk to seize his prey, but the instant he had done it, rose in pursuit of another quarry."[1]

Judge Edmund Winston, in describing his appearance in the body, wrote:

"While he was speaking there was a perfect stillness throughout the House, and in the galleries. There was no inattention or appearance of weariness. When any other member spoke the members and the audience would in half an hour be going out or moving from their seats."[2]

The venerable Edward Pendleton was elected President by a unanimous vote, John Beckley was appointed Secretary, and the Rev. Abner Waugh, upon the motion of Judge Paul Carrington, was elected Chaplain. Upon the motion of George Mason, it was determined to go through the Constitution clause by clause, and to take no vote upon any part till all had been discussed. The discussions were had in Committee of the Whole, presided over by Chancellor Wythe. On June 4, the preamble and

[1] MS. [2] MS. letter to Mr. Wirt.

two sections of Article 1, were read and the debate was opened by Wilson Nicholas, in an able argument in favor of the House of Representatives as constituted in the proposed plan. Mr. Henry followed him. Taking no notice of his arguments, he gave expression to his alarm at the radical change proposed in the general government, which he declared amounted to turning a confederation of States into "*one great, consolidated*, national government of all the people of the States." This was manifest, he said, from the first words used in the instrument, "We, the people." He demanded of the members of the Federal Convention present a statement of the reasons for their conduct, and being well aware that the great name of Washington was the real obstacle in his path, he added with exquisite tact, "Even from that illustrious man who saved us by his valor, I would have a reason for his conduct: that liberty which he has given us by his valor, tells me to ask this reason; and sure I am, were he here, he would give us that reason." When he sat down Governor Randolph arose, and commenced by declaring, what had already been rumored, his determination to vote for the adoption of the unamended Constitution, which he had refused to sign as a member of the Federal Convention because of its serious defects, pointed out in his published letter.[1] He justified his change of attitude by his fear of disunion, eight States having already ratified. He then proceeded to describe the dangerous condition of the country, caused, as he alleged, by the inefficiency of the confederation. George Mason followed him, and taking up the suggestion of Mr.

[1] Elliott's Debates, i., 482.

Henry, he entered into a discussion of the dangers to America of a consolidated government. He objected to the House of Representatives, because the members would be too few to know the wants of the people. A short reply from Mr. Madison closed the first day's debate. On the next day Judge Pendleton entered the lists in support of the Constitution. Admitting that a consolidated government would be inadmissible over such a territory as the United States, he denied that the proposed plan was such a government. His definition of a consolidated government was, one which had "the sole and exclusive power, legislative, executive, and judicial, without limitation." General Henry Lee next addressed the body on the same side, and commenced by referring to Mr. Henry's remarks of the day before as follows:

"I feel every power of my mind moved by the language of the honorable gentleman yesterday. The *éclat* and brilliancy which have distinguished that gentleman, the honors with which he has often been dignified, and the brilliant talents which he has so often displayed, have attracted my respect and attention. On so important an occasion, and before so respectable a body, I expected a new display of his powers of oratory; but instead of proceeding to investigate the merits of the new plan of government, the worthy character informed us of horrors which he felt, of apprehensions to his mind, which made him tremblingly fearful of the fate of the commonwealth."

After further noticing Mr. Henry's remarks, he added, "The gentleman sat down as he began, leav-

ing us to ruminate on the horrors which he opened with." Mr. Henry at once replied to him. Without seeming to notice his taunt, he referred only to his compliment as follows: "I am much obliged to the very worthy gentleman for his encomium. I wish I was possessed with talents, or possessed of anything that might enable me to elucidate this great subject." He then, in a speech of wonderful power, entered upon his objections to the paper in its different parts, not confining himself to the sections under discussion. Indeed his criticisms were of such a nature, that the whole system must have been considered to give them proper weight. Notwithstanding the efforts of the other side to check it, the general discussion of the entire paper, thus entered upon, was continued till June 14, when the body proceeded to read other sections and discuss them separately.

It is not proposed to follow here the debates, which fill a volume of 652 pages.[1] Some of the incidents, however, will not fail of interest.

Mr. Henry led the opposition. He was ably assisted by George Mason, James Monroe, William Grayson, Benjamin Harrison, John Tyler, and John Dawson. But the brunt of the battle fell upon him. Out of the twenty-two days it continued, there were but five in which he did not take the floor. On each of several days he made three speeches, on one he made five, and on another eight. In one speech he was on his feet seven hours. In the imperfect report which we have, mere outlines, it is said, of the speeches actually made, one of his speeches occu-

[1] See Elliott's Debates on Federal Constitution, vol. iii. The speeches of Mr. Henry will also be found in vol. iii. of this work.

pies eight pages, another ten, another sixteen, another twenty-one, and another forty, while in the aggregate they constitute nearly one-quarter of the volume. His opponents were led by James Madison, who was greatly aided by Governor Randolph, Edmund Pendleton, Wilson and George Nicholas, General Henry Lee, John Marshall, George Wythe, Francis Corbin, and James Innes.

Besides the great learning of this intellectual host, James Madison and Governor Randolph had the advantage of having participated in the able debates of the Federal Convention, as yet not seen by Mr. Henry. Doubtless they all had made preparations for the contest in which they were now engaged. That of Mr. Madison had been very careful, as appears by his published papers.[1] Mr. Henry proved himself, however, fully able to meet them. In the field of history, so often resorted to, he was at home. This was gracefully acknowledged by one of his opponents, Francis Corbin, who said of him: "The honorable gentleman is possessed of much historical knowledge. I appeal to that knowledge, therefore." In political science, the experience of a hundred years now warrants the assertion, that he far excelled his opponents. He certainly foresaw the working of the new plan of government more clearly than any of its framers, and to him we are indebted, in a very great measure, for those amendments which have done so much to keep it in its appropriate sphere.

The debate was conducted with great courtesy, interrupted only occasionally by the excited pas-

[1] Madison's Works, i., 389–398.

sions of some of the speakers. Among these exceptions was a memorable passage between Mr. Henry and Governor Randolph. In the published letter of the latter, he had indicated his objections to the proposed Constitution, which were in the main such as Mr. Henry was urging, and had stated as the reason he withheld his signature, that he moved in the Federal Convention, "That the State conventions should be at liberty to amend, and that a second general convention should be holden to discuss the amendments which should be suggested by them; which was negatived."[1] His change of position would not probably have caused any sharp criticism if he had simply announced, that the fear of disunion had determined him to vote for the ratification of the unamended paper. But it soon became apparent that he aspired to be the leader in the defence of the Constitution. In the first four days of the debate he made three long speeches, taking ground seemingly inconsistent with his earlier position. This imposed a heavier tax upon the forbearance of Mr. Henry than it could stand. In replying to the third speech of the Governor he said:

"The honorable member will not accuse me of want of candor, when I cast in my mind what he has given to the public, and compare it to what has happened since. It seems to me very strange and unaccountable that that which was the object of his execration should now receive his encomiums. Something extraordinary must have operated so great a change in his opinions."

[1] Elliott's Debates on Federal Constitution, i., 489, &c.

And later in the same speech, he referred to the action of the Governor again, enlarging upon the matter, and adding these biting words:

"How will his present doctrine hold with what has happened? Is it consistent with that noble and disinterested conduct which he displayed on a former occasion? Did he not tell us that he withheld his signature? Where, then, were the dangers which now appear to him so formidable? He saw all America eagerly confiding that the result of their deliberations would remove their distresses. He saw all America acting under the impulses of hope, expectation, and anxiety, arising from their situation and their partiality for the members of that convention; yet his enlightened mind, knowing that system to be defective, magnanimously and nobly refused its approbation. He was not led by the illumined, the illustrious few. He was actuated by the dictates of his own judgment; and a better judgment than I can form. He did not stand out of the way of information. He must have been possessed of every intelligence. What alteration has a few months brought about? The eternal difference between right and wrong does not fluctuate. It is immutable. I ask this question as a public man, and out of no particular view. I wish, as such, to consult every source of information, to form my opinion on so awful a question."

Touched to the quick and greatly angered, the Governor lost control of himself. In reply he said:

"I find myself attacked in the most illiberal manner by the honorable gentleman. I disdain his aspersions and his insinuations. His asperity is warranted by no principle of parliamentary decency,

nor compatible with the least shadow of friendship; and if our friendship must fall, *let it fall like Lucifer, never to rise again!* Let him remember that it is not to answer him, but to satisfy his respectable audience, that I now get up. . . . I understand not him who wishes to give a full scope to licentiousness and dissipation—who would advise me to reject the proposed plan, and plunge us into anarchy." The reporter here adds in a note, "that His Excellency read the conclusion of his public letter and proceeded to prove the consistency of his present opinion with his former conduct; when Mr. Henry arose and declared that he had no personal intention of offending any one, that he did his duty, but that he did not mean to wound the feelings of any gentleman; that he was sorry if he offended the honorable gentleman without intending it; and that every gentleman had a right to maintain his opinions. His Excellency then said that he was relieved by what the honorable gentleman said; that were it not for the concession of the gentleman, he would have made some men's hair stand on end, by the disclosure of certain facts. Mr. Henry then requested, that if he had anything to say against him, he would disclose it."

His Excellency is not reported as making any reply to this, and he is left in the unenviable position of accepting the disclaimer of Mr. Henry and at the same time attacking him with a dark insinuation, which he declined to explain when it was demanded. What was the disclosure threatened has never been known. Doubtless it was some falsehood propagated by malice, and not believed by the Governor, as we learn from the speech of His Excellency that his friendship with Mr. Henry had subsisted till then. The sequel to

this scene in the convention is related by Judge Spencer Roane in his letter to Mr. Wirt.[1] Speaking of Mr. Henry's personal courage, Judge Roane said:

"He was so good-tempered a man that I never heard of his having a quarrel. He did indeed call on Edmund Randolph in 1788, on account of some personalities used toward him in the convention, with old Will Cabell as his friend; and I heard the latter say that Mr. Henry acted with great firmness and propriety. He let Mr. Randolph down, however, pretty easily, owing to the extreme benignity of his disposition."

An exciting scene also occurred between Mr. Henry and George Nicholas on June 23. The latter, in discussing the effect of the Constitution on the land claims, is thus reported: "As to the claims of certain companies who purchased lands of the Indians, they were determined prior to the opening of the land office by the Virginia Assembly; and it is not to be supposed they will again renew their claims. But, sir, there are gentlemen who have come by large possessions that it is not easy to account for. (Here Mr. Henry interfered, and hoped the honorable gentleman meant nothing personal.) Mr. Nicholas observed, "I mean what I say, sir."

When Mr. Henry got the floor, the report continues as follows:

"Mr. Henry. Mr. Chairman, if the gentleman means personal insinuations, or to wound my pri-

[1] MS.

vate reputation, I think this an improper place to do so. If, on the other other hand, he means to go on in the discussion of the subject, he ought not to apply arguments which might tend to obstruct the discussion. As to land matters, I can tell how I came by what I have; but I think that gentleman has no right to make the inquiry of me. I meant not to offend any one. I have not the most distant idea of injuring any gentleman. My object was to obtain information. If I have offended in private life, or wounded the feelings of any man, I did not intend it. I hold what I hold in right, and in a just manner. I beg pardon, sir, for having intruded thus far."

"MR. NICHOLAS. Mr. Chairman, I meant no personality in what I said, nor did I mean any resentment. If such conduct meets the contempt of that gentleman, I can only assure him it meets with an equal degree of contempt from me.

"Mr. President observed, that he hoped gentlemen would not be personal; that they would proceed to investigate the subject calmly, and in a peaceable manner.

"Mr. Nicholas replied that he did not mean the honorable gentleman (Mr. Henry), but he meant those who had taken up large tracts of land in the western country. The reason he would not explain himself before was, that he thought some observations dropped from the honorable gentleman which ought not to have come from one gentleman to another."[1]

What Mr. Henry had said which could have been offensive to Mr. Nicholas, the report does not dis-

[1] Elliott's Debates, iii., 581-2.

close. It must have been some remark when he interrupted him, not reported.

But these scenes were not confined to Mr. Henry. In discussing the judiciary, George Mason stated that,

"There are many gentlemen in the United States who think it right that we should have one great, national, consolidated government, and that it is better to bring it about slowly and imperceptibly rather than all at once. . . . I know from my own knowledge many worthy gentlemen of this opinion."

Mr. Madison here interrupted him and demanded an unequivocal explanation, and a statement of who the gentlemen were to whom he alluded. Colonel Mason replied:

"I shall never refuse to explain myself. It is notorious that this is a prevailing principle. It was at least the opinion of many gentlemen in convention, and many in the United States. I do not know what explanation the honorable gentleman asks. I can say with great truth, that the honorable gentleman, in private conversation with me, expressed himself against it; neither did I ever hear any of the delegates from this State advocate it."[1]

The fact that Pendleton, Wythe, and others in Virginia, who opposed the earlier measures of the Revolution, and showed an indisposition to give up a kingly government, were now the earnest advocates of the proposed plan, was sarcastical-

[1] Elliott's Debates, iii., 522.

ly alluded to by Colonel Mason in the following words:

"I have some acquaintance with a great many characters who favor this government, their connections, their conduct, their political principles, and a number of other circumstances. There are a great many wise and good men among them. But when I look round the number of my acquaintances in Virginia, the country wherein I was born and have lived so many years, and observe who are the warmest and the most zealous friends to this new government, it makes me think of the story of the cat transformed into a fine lady; forgetting her transformation, and happening to see a rat, she could not restrain herself, but sprang upon it out of the chair."[1]

These passages throw a strong light on the grounds of distrust of the system entertained by Mason and Henry and those who acted with them.

The speech of Mr. Henry on June 5, in which he first developed his objections to the Constitution, was regarded by many as his greatest effort. Its effect was for the time overpowering. Two anecdotes are related illustrative of this. General Thomas Posey, an officer of distinction in the Revolution, and subsequently under Wayne in his Indian campaigns, was a warm advocate of the Constitution; yet he afterward declared that he was so overpowered by the eloquence of Mr. Henry on this occasion as to believe, that the Constitution, if adopted, would be the ruin of our liberties as certainly as he believed in his own existence; but that subse-

[1] Elliott's Debates, iii., 269.

quent reflection reassured his judgment, and his well-considered opinion resumed its place.[1] A Mr. Best, an intelligent gentleman from Nansemond County, was wont to relate, that the fervid description which Mr. Henry gave of the slavery of the people, brought about by a federal executive at the head of his armed hosts, was so thrilling that "he involuntarily felt his wrists to assure himself that the fetters were not already pressing his flesh, and that the gallery in which he sat seemed to become as dark as a dungeon." [2]

An incident occurred while Mr. Henry was delivering this speech, which shows that his feelings as a husband were never lost in those of a patriot. In the midst of his argument he recognized the face of his son, whom he had left to protect his family in his absence, and he knew that some important domestic event had brought him to Richmond. He hesitated a moment, stooped down, and with a full heart whispered to a friend near him: "Dawson, I see my son in the hall; take him out." Mr. Dawson at once withdrew with young Henry, and soon returned with the grateful intelligence that Mrs. Henry had given birth to a son, and that both mother and child were doing well.[3] The new-born babe was named Alexander Spotswood, and lived to be familiar with his father's features and to enjoy his fame, and at the age of sixty-five was laid by his side in the quiet burial-ground at Red Hill.

With a body so evenly divided the qualities of the leaders as tacticians were severely tested. Mr. Henry more than sustained his reputation in this regard.

[1] Life of A. Alexander, 190. [2] Grigsby's Convention of 1788, 119.
[3] Idem.

He brought to bear every legitimate influence within his reach to carry his point. He brought out Mr. Jefferson's advice that nine States adopt and the other four stand off till the plan should be properly amended,[1] and as his opponents claimed that New Hampshire would ratify, he insisted that Virginia should reject in accordance with this advice. He alarmed the British debtors, and the settlers on the lands included in the Indiana claim and the grant to Lord Fairfax, by insisting that under the proposed Constitution suits would be brought, and might be maintained to their detriment. But his use of the Spanish claim to the Mississippi was the most effective. It was believed that the fourteen delegates from Kentucky would decide the question before the Convention, and a warm contest for their votes was the consequence. Mr. Henry urged with great force the danger of losing the free navigation of the river under the new system, which allowed the President and two-thirds of the senators present to make treaties. He declared that the Northern States wished to abandon the right, and to effect their object might confirm a treaty with Spain when some of the Southern senators were absent. In support of this view, he alluded time and again to the action of the Northern States in the Continental Congress touching this river, and when Mr. Madison made a statement seemingly contradictory of his, he moved that the Convention call on the members who had served in Congress to relate the transactions of that body touching the subject. To this his opponents were forced to assent, and on June 13, General Henry Lee, Mr. Monroe,

[1] Letter to A. Donald, Jefferson's Works, ii., 355.

Mr. Grayson, and Mr. Madison, each stated his recollections,[1] fully sustaining Mr. Henry's claim that it was at one time the purpose of the seven Northern States to yield to Spain that river, at least for a considerable period. The effect upon the body was visible. After the adjournment for the day Mr. Madison wrote to General Washington, almost in despair:

"Appearances at present are less favorable than at the date of my last. Our progress is slow, and every advantage is taken of the delay to work on local prejudices of particular sets of members. British debts, the Indiana claim, and the Mississippi, are the principal topics of private discussion and intrigue, as well as of public declamation. The members who have served in Congress have been dragged into communications on the last, which could not be justifiable on any other occasion, if on the present. There is reason to believe that the event may depend on the Kentucky members, who seem to lean more against than in favor of the constitution. The business is in the most ticklish state that can be imagined. The majority will certainly be very small, on whatever side it may finally lie; and I dare not encourage much expectation that it will be on the favorable side."[2]

On the side of the Federalists various devices were resorted to in order to insure success. It will be remembered that Mr. Henry had caused the act calling the Convention to be so amended as to provide for sending delegates to the conventions of sister States, to consult on the amendments proper to

[1] Elliot's Debates, iii., 333–351. [2] Madison's Works, i., 399.

be engrafted upon the Constitution, and secure unanimity of action on the subject. The act was drawn so as to be an invitation to the other States to unite with Virginia in the effort to secure amendments.[1] Governor Randolph, then in accord with the Republicans, as the opposition were called, enclosed a copy of the act to each of the governors of the other States, to be submitted to the Legislature of his State. His communications were dated December 27, 1787, but the one addressed to Governor Clinton, of New York, did not reach its destination till March 7, 1788. It was transmitted at once to the Legislature, then just closing its session, but it reached the body, which was largely republican, too late for action to be taken on it. After its adjournment, and in time to reach the Virginia Convention, Governor Clinton replied to Governor Randolph, explaining the failure of the New York Legislature to act, and assuring him of the sympathy of the people of his State with the Republicans in Virginia. He further wrote:

"The convention of this State are to meet at Poughkeepsie, on June 17, to take the proposed system into consideration, and I am persuaded they will, with great cordiality, hold communication with any sister State on the important subject, and especially with one so respectable in point of importance, ability, and patriotism as Virginia. . . . As the session of your convention will take place before that of this State, they will, I presume, commence the measures for holding such communications as shall be deemed necessary."

[1] Hening's Statutes at Large, xii., 463.

This letter came to Governor Randolph after he had determined to vote with the Federalists. He submitted it to his Council to determine whether it should be considered a private or public communication. It was decided to be of a public nature. The Governor, however, did not transmit it to the Convention, but reserved it for the meeting of the Legislature in special session, which had been called for June 23, when the Convention was expected to be adjourned. In the Legislature a quorum was obtained in the House on June 24. This letter, however, was not sent to the Assembly till the next day, after the final vote in the Convention had been taken.[1] Thus Governor Randolph destroyed its effect upon the work of the Convention. It might have determined the Convention to send a delegation to New York and await their report, which would have been very certainly favorable to the opposition; and in the meantime the fact that New Hampshire had made the ninth State to ratify, might have determined Virginia to follow Jefferson's advice, and hold off for satisfactory amendments.

The Federalists used with great effect the influence of Washington, who was in constant communication with Madison and others. Not only his desire to obtain immediate ratification, but the certainty that he would be the first president, had great influence in carrying the Constitution.

[1] This is stated in a resolution in the handwriting of George Mason, in the possession of Miss K. M. Rowland, asking for a committee to investigate Governor Randolph's conduct. The Journal shows communications enclosing letters, sent by the Governor to the House, on June 24 and 25. Mr. Conway in his "Life of Edmund Randolph," dates his communication enclosing this letter June 23. But if this is correct it was withheld till the 25th. See Edmund Randolph, Chapter xii.

In view of this Colonel Grayson was tempted to say:

"I think that, were it not for one great character in America, so many men would not be for this government. We have one ray of hope. We do not fear while he lives, but we can only expect his fame to be immortal. We wish to know who, besides him, can concentrate the confidence and affections of all America." [1]

Along with this influence the Federalists urged the danger of disunion and anarchy, in case of delay, a danger altogether chimerical, as was afterward proved on the refusal of North Carolina and Rhode Island to ratify.

But notwithstanding these arts, and the able defence of the Constitution by such logicians as Madison, Marshall, Pendleton, Wythe, and Nicholas, and such brilliant orators as Randolph, Lee, and Innes, it was apparent, on the completion of the examination by sections on June 23, that a majority was for amendments. The Federalists then resorted to the tactics of their party in Massachusetts, adding a new device to it. Wythe, as their spokesman, proposed "that the committee should ratify the Constitution, and that whatsoever amendments might be deemed necessary should be recommended to the consideration of the Congress which should first assemble under the Constitution, to be acted upon according to the mode prescribed therein." He then read a resolution of ratification, which was afterward reported by a committee consisting of Messrs. Randolph,

[1] Elliott's Debates, iii., 616.

Nicholas, Madison, Marshall, and Corbin, as follows:

"We, the delegates of the people of Virginia, duly elected in pursuance of a recommendation from the General Assembly, and now met in convention, having fully and freely investigated and discussed the proceedings of the Federal Convention, and being prepared, as well as the most mature deliberation hath enabled us, to decide thereon; do in the name and in behalf of the people of Virginia, declare and make known, that the powers granted under the constitution, being derived from the people of the United States, may be resumed by them whensoever the same shall be perverted to their injury or oppression, and that every power, not granted thereby, remains with them and at their will; that, therefore, no right of any denomination, can be cancelled, abridged, restrained, or modified, by the Congress, by the Senate or House of Representatives, acting in any capacity, by the President or any department or officer of the United States, except in those instances in which power is given by the constitution for those purposes; and that among other essential rights, the liberty of conscience and of the press cannot be cancelled, abridged, restrained, or modified, by any authority of the United States.

"With these impressions, with a solemn appeal to the Searcher of hearts for the purity of our intentions, and under the conviction that whatsoever imperfections may exist in the constitution, ought rather to be examined in the mode prescribed therein, than to bring the Union into danger by delay, with a hope of obtaining amendments previous to the ratification—we, the said delegates, in the name and behalf of the people of Virginia, do by these presents assent to and ratify the constitution recom-

mended on September 17, 1787, by the Federal Convention, for the government of the United States; hereby announcing to all those whom it may concern, that the said constitution is binding upon the said people according to an authentic copy hereto annexed."

This was an apparent concession to the opposition, and, if it meant anything, meant to secure in the act of ratification such a construction of the instrument as would preserve the rights believed to be in jeopardy. Mr. Henry at once arose and opposed the motion in a speech of great power. He insisted that the construction put upon the instrument in the resolution of ratification proposed would not affect its construction when put in operation. That it was but a proposal to the other States, and not binding on them unless concurred in. In this connection he used these memorable words:

"We have ratified it. You have committed a violation, will they say. They have not violated it. We say we will go out . . . we shall be told we have violated it, because we have left it for the infringement and violation of conditions which they never agreed to be a part of the ratification. The ratification will be complete."

This view was contested by Mr. Nicholas, who said:

"The language of the ratification would secure everything which gentlemen desired, as it declared that all powers vested in the constitution were derived from the people, and might be resumed by

them whensoever they should be perverted to their injury and oppression; and that every power not granted thereby remained at their will. No danger whatever could arise; for, said he, these expressions will become a part of the contract. The constitution cannot be binding on Virginia, but with these conditions. If thirteen individuals are about to make a contract, and one agrees to it, but at the same time declares that he understands its signification and intent to be (what the words of the contract plainly and obviously denote), that it is not to be construed so as to impose any supplementary condition upon him, and that he is to be exonerated from it whensoever any such imposition shall be attempted—I ask whether, in this case, these conditions, on which he has assented to it, would not be binding on the other twelve. In like manner, these conditions will be binding on Congress. They can exercise no power that is not expressly granted them."[1]

Mr. Madison, who spoke after Mr. Nicholas in favor of this form of ratification, said nothing in disapproval of this view, and in a speech delivered just before seemed to agree with it. After reciting the words of the resolution he said:

"There cannot be a more positive and unequivocal declaration of the principle of the adoption."[2]

Nevertheless, that Mr. Madison did not agree with Mr. Nicholas, and that the form of ratification proposed was a device to catch votes, is conclusively shown by his private correspondence since made

[1] Elliott's Debates, iii., 625–6. [2] Idem, iii., 620.

public. On June 23, he wrote to General Washington:

"We got through the constitution by paragraphs to-day. To-morrow some proposition for closing the business will be made. On our side a ratification involving a few declaratory truths not affecting its validity will be tendered."[1]

And a few weeks later, in writing to Colonel Hamilton concerning the conditional ratification proposed in the New York Convention, he said:

"The constitution requires an adoption *in toto* and forever. It has been so adopted by the other States. My opinion is, that a reservation of a right to withdraw, if amendments be not decided upon under the forms of the constitution within a certain time, is a conditional ratification; that it does not make New York a member of the new Union; and consequently, that she could not be received on that plan—compacts must be reciprocal. This principle would not, in such a case, be preserved. . . The idea of reserving a right to withdraw was started at Richmond, and considered as a conditional ratification, which was itself abandoned as worse than a rejection."[2]

With this light upon the inner councils of the Federalists, it is apparent that the claim of the right of resumption of powers by the people of the United States in the preamble of ratification, was intended to hold out the idea of the right of the State to secede from the Union, if the construction thereby put upon the Constitution should not be followed,

[1] Madison's Works, i., 401.

[2] Hamilton's Works, i., 465.

or the powers granted be perverted to her injury; while the distinct reservation by the State of a right to leave the Union was discussed by leading Federalists in secret conclave, and abandoned, as making the ratification conditional and of no effect. Thus in using the words "people of the United States," they paltered in a double sense, suggesting the people of the several States, while really meaning the people of the entire Union. On the part of the opposition, Mr. Henry, in his reply to Chancellor Wythe, brought forward the amendments agreed on by them,[1] with which, previously engrafted, they declared that they were willing to vote for the plan of government. The debate upon these rival proposals continued for two days, and besides Wythe and Henry, the participants were Randolph, Mason, Dawson, Grayson, Madison, Nicholas, Harrison, Monroe, Innes, Tyler, Stephen and Zachariah Johnson. That the Constitution was defective was now admitted on all hands. Judge Tyler said truly, "Previous and subsequent amendments are now the only dispute."[2] In this last great and final struggle Mr. Henry exhibited no exhaustion, but the three speeches he made equalled, if they did not excel, in power any he had delivered in the body. His whole soul seemed to be thrown into the struggle, and in the heat of the debate on the 24th he declared, "I shall have nothing to do with it if subsequent amendments be determined upon. . . I conceive it my duty, if this government is adopted before it is amended, to go home." On reflection, however, he subsequently changed his mind and retracted this statement.

[1] The most of these Mr. Madison strenuously opposed. Elliott's Debates, iii., 618, 620.

[2] Elliott's Debates, iii., 639.

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[2] Elliott's Debates, iii., 639.

It was on the 24th, in his reply to Mr. Madison, that the celebrated storm scene occurred. It cannot be better described than it has been by Mr. Wirt. Says he: "The question of adoption or rejection was now approaching. The decision was still uncertain, and every mind and every heart was filled with anxiety. Mr. Henry partook most deeply of this feeling, and while engaged, as it were in his last effort, availed himself of the strong sensations which he knew to pervade the house, and made an appeal to it which, in point of sublimity, has never been surpassed in any age or country of the world. After describing, in accents which spoke to the soul, and to which every other bosom deeply responded, the awful immensity of the question to the present and future generations, and the throbbing apprehensions with which he looked to the issue, he passed from the house and from the earth, and looking, as he said, 'beyond that horizon which binds mortal eyes,' he pointed—with a countenance and action that made the blood run back upon the aching heart—to those celestial beings who were hovering over the scene, and waiting with anxiety for a decision which involved the happiness or misery of more than half the human race. To those beings—with the same thrilling look and action—he had just addressed an invocation that made every nerve shudder with supernatural horror, when lo! a storm at that instant arose, which shook the whole building, and the spirits whom he called seemed to have come at his bidding. Nor did his eloquence, or the storm, immediately cease—but availing himself of the incident, with a master's art he seemed to mix in the fight of his ethereal auxiliaries, and

'rising on the wings of the tempest, to seize upon the artillery of Heaven, and direct it against his adversaries.' The scene became insupportable; and the house rose without the formality of adjournment, the members rushing from their seats with precipitation and confusion."[1]

In point of sublimity this flight far surpassed the splendid apostrophe of Demosthenes to the manes of the heroes of Marathon, Platæa, etc., and the bold figure of Cicero representing the rocks and mountains moved with horror at the bare recital of the enormities of Verres, which are among their finest efforts as orators.

Doubtless, if the vote had been taken at once, Mr. Henry would have carried his point.

The next day Randolph and Madison, alarmed by the fear of defeat, again urged the danger of disunion from rejection, and that the desire of the several States for amendments already expressed, guaranteed their adoption subsequent to ratification. They pledged the Federalists in the body to concurrence in subsequent amendments, and Madison closed with these words: "Let us join with cordiality in those alterations we think proper. There is no friend to the constitution but will concur in that mode."[2] He had written Washington on the 23d, "We calculate on a majority, but a bare one. It is possible, nevertheless, that some adverse cir-

[1] Note by Mr. Wirt: "The words above quoted are those of Judge Archibald Stuart: a gentleman who was present, a member of the convention, and one of those who voted against the side of the question supported by Mr. Henry. The incident, as given in the text, is wholly founded on the statements of those who were witnesses of the scene, and by comparing it with the corresponding passage in the printed debates, the reader may decide how far these are to be relied on as specimens of Mr. Henry's eloquence."

[2] Elliott's Debates, iii., 629–30.

cumstance may happen." The effort of Mr. Henry on the next day, had it not been overcome, would have proved the "adverse circumstance" feared. But reflection and the influences brought to bear by the Federalists restored their lines, and when Mr. Henry on the 25th made his last speech, he evidently foresaw the result which awaited the vote to be taken on that day. He replied to the eloquent Colonel Innes, whose duty as Attorney-General had prevented his taking part in the debate at an earlier day, and in doing so passed upon him the following splendid compliment, which evidenced not only the genius of Colonel Innes, but the generosity of Mr. Henry toward an opponent. He said: "That honorable gentleman is endowed with great eloquence—eloquence splendid, magnificent, and sufficient to shake the human mind."[1] He closed with the following words, which were the indication of his subsequent political course:

"I beg pardon of this House for having taken up more time than came to my share, and I thank them for the patience and polite attention with which I have been heard. If I shall be in the minority I shall have those painful sensations which arise from a conviction of being overpowered in a good cause. Yet I will be a peaceable citizen. My head, my hand, and my heart shall be at liberty to retrieve the loss of liberty, and to remove the defects of that system in a constitutional way. I wish not to go to violence, but will wait with hopes that the spirit which predominated in the revolution is not gone, nor the cause of those who are attached to the revolution lost. I shall, therefore, patient-

[1] Mr. Grigsby cites these sentences as proof by reason of their structure of Mr. Henry's training as a Latin scholar.

ly wait in expectation of seeing that government changed so as to be compatible with the safety, liberty, and happiness of the people."

In lieu of the resolution of ratification he moved:

"That previous to the ratification of the new constitution of government recommended by the late convention, a declaration of rights, asserting and securing from encroachment the great principles of civil and religious liberty, and the unalienable rights of the people, together with amendments to the most exceptional parts of the said constitution of government, ought to be referred by this convention to the other States in the American confederacy for their consideration."

This was lost by a vote of 80 ayes to 88 noes, and the vote being then taken on the resolution to ratify, it was carried by a vote of 89 ayes to 79 noes.

On the same day the following committee of twenty was appointed to prepare and report the proper amendments to be recommended: Wythe, Harrison, Matthews, Henry, Randolph, George Mason, Nicholas, Grayson, Madison, Tyler, John Marshall, Monroe, Ronald, Bland, Meriwether Smith, Paul Carrington, Innes, Hopkins, John Blair, and Simms. Of these, eleven, namely, Wythe, Matthews, Randolph, Nicholas, Madison, Marshall, Ronald, Carrington, Innes, Blair, and Simms, had just voted for ratification. On the next day the committee reported, without important change, the amendments which had been offered by Mr. Henry. They consisted of a bill of rights and twenty additional articles.[1] The third,

[1] See post, iii., 593.

in the following words, was considered by the Federalists the most objectionable:

"When Congress shall lay direct taxes or excises, they shall immediately inform the executive power of each State of the quota of such State, according to the census herein directed, which is proposed to be thereby raised; and if the legislature of any State shall pass a law which shall be effectual for raising such quota at the time required by Congress, the taxes and excises laid by Congress shall not be collected in such State."

A motion to strike it out was lost by a vote of 65 ayes to 85 noes, and the report was then adopted without a division; and the representatives of the State in Congress were enjoined, "to exert all their influence and to use all reasonable and legal methods," to obtain the adoption of the proposed amendments.

Monroe, in writing to Jefferson a few days afterward, thus describes the conduct of the opposing parties:

"The discussion, as might have been expected when the parties were so nearly on a balance, was conducted generally with great order, propriety, and respect of either party to the other, and its event was accompanied with no circumstance on the part of the victorious that was extraordinary exultation, nor of depression on the part of the unfortunate. There was no bonfire illumination, etc., and had there been, I am inclined to believe the opposition would have not only expressed no dissatisfaction, but have scarcely felt any at it; for they seemed to be governed by principles elevated high-

ly above circumstances so trivial and transitory in their nature."[1]

Indeed, both parties were deeply impressed with the grave responsibility of their action, as it was believed that by the vote given life was breathed into the Federal Constitution.

It has been sometimes represented that Mr. Madison's logic prevailed over Mr. Henry's eloquence in this memorable contest, in which they were the leaders. It is true that Mr. Madison argued with great logical powers, and that he was a prince among logicians. But it is not true that Mr. Henry was simply eloquent. He also displayed great logical powers, and upon the question of the plan of government proposed, over which the trial of logic occurred, Mr. Henry prevailed, carrying the Convention for the amendments he proposed by a large majority. The question of the best way to secure these amendments, whether by previous or subsequent demand, upon which Mr. Madison prevailed, was one rather of policy, and was not carried by logic. The arguments of Mr. Henry on this question were, in fact, the more logical, as was demonstrated by the event.

Mr. Madison, in arguing for subsequent amendments, probably expected to defeat them altogether, as he was well aware of the difficulties of procuring them. He had said in the Philadelphia Convention, in reply to a suggestion of Judge Ellsworth, that the defects of the Constitution might be amended.

"The difficulty of getting its defects amended are great, and sometimes insurmountable. The Vir-

[1] Monroe to Jefferson, July 12, 1788; Bancroft's History of the Constitution, ii., 474.

ginia State government was the first which was made, and although its defects are evident to every person, we cannot get it amended. The Dutch have made four several attempts to amend their system without success. The few alterations made in it were by tumult and faction, and for the worse." [1]

The poorly reported speeches of Mr. Henry attest the powers of reasoning he displayed on this memorable occasion, but in addition we have the testimony of one of his ablest opponents, one who certainly was a judge of logic, and had ample opportunity of seeing him in deliberative bodies and at the bar.

John Marshall, after he had achieved his great reputation as Chief Justice of the United States, upon a visit to Warrenton, Va., was asked his opinion of Wirt's "Life of Mr. Henry." He replied that "he did not think it did full justice to its subject. That while the popular idea of Mr. Henry, gathered from Mr. Wirt's book, was that of a great orator, he was that and much more, a learned lawyer, a most accurate thinker, and a profound reasoner." And proceeding to compare him with Madison: "If I were called upon," said he, "to say who of all the men I have known had the greatest power to convince, I should perhaps say Mr. Madison, while Mr. Henry had without doubt the greatest power to persuade." [2]

Upon this occasion, however, Mr. Madison and his party carried their point by influences very dif-

[1] Elliott's Debates, i., 465.

[2] I am indebted to Judge James Keith, of Warrenton, Va., for this interesting statement, which he obtained from a memorandum of the conversation made by the late Judge John Scott.

ferent from those of logic, some of which, as we have seen, were questionable.

The strongest force that they brought to bear was the overshadowing influence of Washington. To this their success was attributed at the time.

Mr. Monroe, in the letter which has been quoted, wrote: "Be assured General Washington's influence carried this government," and this was the opinion expressed by Grayson and Mason. Even this great influence, however, would have failed, in all probability, had the Convention known that New Hampshire had made the ninth State to ratify on June 21, or had Governor Clinton's letter to Governor Randolph been laid before the body. As it was, the result was attained by inducing several of the delegates to vote against the wishes of their constituents.[1] Among these may be mentioned Humphrey Marshall, of Fayette County, Kentucky,[2] Andrew Moore, and William McKee, of Rockbridge,[3] George Parker, of Accomac, Paul Carrington, of Charlotte, Levin Powell, of Loudon, William Overton Callis, of Louisa, and William McClerry, of Monongalia. Had these voted the sentiments of their constituents as indicated by instructions, or by the votes of their associated delegates, the result would have been against ratification without previous amendments.

[1] This is shown in an able review of the convention by John Scott, Esq., of Virginia, in a volume entitled "The Lost Principle."

[2] He admits this in his History of Kentucky.

[3] These were instructed to vote against ratification without previous amendments.

CHAPTER XXXVII.

OBJECTIONS TO THE CONSTITUTION.—1788.

Mr. Henry Declares It a Consolidated Government.—Mr. Madison's Definition of It.—The Conflicting Theories.—Mr. Henry's Afterward Adopted by the Supreme Court and Federal Government.—Balance of Power Destroyed.—Want of Responsibility.—Executive Patronage.—Insufficient Checks.—Bill of Rights Proposed.—Its Great Value in the Government.—Rights of Person and of Property.—Religious Freedom.—Limits of Federal Powers Defined.—Proposed Amendments Not Adopted.—Requisitions.—Two-thirds Majority in Congress in Commercial and Navigation Acts.—Restriction as to Elections.—Increase of Pay.—Impeachments.—Term of President.—Jurisdiction of Federal Courts.—Verifications of Mr. Henry's Predictions.—Implied Powers.—Abolition of Slavery.—Military Force Used Against the States.—Interference in Elections.—Improper Use of Money.—The South Sacrificed to the Interest of the Majority.—Tendency to Monarchy.—Conflict of Federal and State Courts.

BUT the fact that Mr. Henry carried the Convention on the main topic of debate, the defects of the proposed Constitution, is but a part of the honor to be accorded to him. A study of the reported debates demonstrates the fact that he was a statesman of the highest order, and that he understood the nature of the new government more thoroughly, and foresaw its practical working more clearly, than any of his contemporaries. In truth, he seemed endowed with something akin to prophetic vision in regard to its future.[1]

[1] The positions of Mr. Henry stated in this chapter will be found in his Speeches, in volume iii.

His first and great objection to the new plan was that it constituted a consolidated government, with powers drawn directly from the people and operating directly upon the people of the adopting States, and changed the existing confederation of sovereign States into a great national supreme government. He said in his first speech:

"That this is a consolidated government is demonstrably clear; and the danger of such a government is, to my mind, very striking. . . . Who authorized them (the framers) to speak the language of, *we the people*, instead of, *we the States?*

"States are the characteristics and the soul of a confederation. If the States be not the agents of this compact, it must be one great, consolidated, national government of the people of all the States."

In his second speech he said:

"Have they said, we the States? Have they made a proposal of a compact between States? If they had this would be a confederation. It is otherwise most clearly a consolidated government. . . . Here is a resolution as radical as that which separated us from Great Britain. It is radical in this transition; our rights and privileges are endangered, and the sovereignty of the States will be relinquished; and cannot we plainly see that this is actually the case?"

This view of the nature of the new government he continually referred to, and insisted on. Mr. Madison in reply said:

"I conceive myself that it is of a mixed nature; it is in a manner unprecedented; we cannot find

one express example in the experience of the world. It stands by itself. In some respects it is a government of a federal nature; in others, it is of a consolidated nature. Who are parties to it? The people—but not the people as composing one great body; but the people as comprising thirteen sovereignties." [1]

This definition Mr. Henry ridiculed unmercifully. He said:

"This government is so new, it wants a name. I wish its other novelties were as harmless as this. . . . We are told that this government, collectively taken, is without example; that it is national in this part, and federal in that part, etc. We may be amused, if we please, by a treatise of political anatomy. In the brain it is national; the stamina are federal; some limbs are federal, others national. The senators are voted for by the State legislatures; so far it is federal. Individuals choose the members of the first branch; here it is national. It is federal in conferring general powers, but national in retaining them. It is not to be supported by the States; the pockets of individuals are to be searched for its maintenance. What signifies it to me that you have the most curious anatomical description of it in its creation? To all the common purposes of legislation, it is a great consolidated government."

Later, when he had pushed Mr. Madison to the wall, and wrung from him the admission that by the possession of the sword and purse the new gov-

[1] Elliott's Debates, iii., 94. Some of the federal features Mr. Madison had opposed in the Philadelphia Convention, notably equal representation in the Senate.

ernment possessed everything of consequence, he said, triumphantly:

"Mr. Chairman, it is now confessed that this is a national government. There is not a single federal feature in it. It has been alleged within these walls, during the debates, to be national and federal, as it suited the arguments of gentlemen. But now, when we have heard the definition of it, it is purely national."

Madison and Randolph did not controvert this conclusion in their replies, but General Henry Lee did, claiming that Mr. Henry had "put words in our (the Federalists') mouths that we never uttered."[1] Had Mr. Henry been a member of the Federal Convention he would have known that the body, on the motion of Randolph, supported by Madison, deliberately determined to form a national government, and would have understood their silence.

As a corollary of the claim that the Constitution provided a Federal and not a consolidated government, it was insisted by some of its advocates, that if its powers were abused, the State would have the right to recall the powers which had been delegated to it.

Judge Pendleton said:

"We will assemble in convention; wholly recall our delegated powers, or reform them so as to prevent such abuse; and punish those servants who have perverted powers, designed for our happiness, to their own emolument."[2]

[1] Elliott's Debates, iii., 406.

[2] Idem, iii., 37, and post.

This Mr. Henry also ridiculed as follows:

"The honorable gentleman who presides told us that to prevent abuses in our government, we will assemble in convention, recall our delegated powers, and punish our servants for abusing the trust reposed in them. O, Sir, we should have fine times, indeed, if to punish tyrants, it were only sufficient to assemble the people!"

Thus at the moment of its adoption two conflicting theories as to the nature of the United States Constitution were advanced. They continued to divide parties afterward more distinctly. The party organized by Jefferson, and afterward led by Calhoun, insisted that the States had entered into a compact, that they were still sovereign, and had only delegated powers which could be recalled. The party organized by Hamilton, and afterward led by Webster, agreed with Mr. Henry, that the people of the States had created a national government, and endowed it with certain supreme powers which were irrevocable by the several States, except by amendment as provided in the instrument itself, or by revolution. This construction was adopted by the Supreme Court, and acted on by the Federal Government in its several departments, and has been finally established beyond controversy by the result of the greatest civil war history has recorded, brought about by the endeavor of the Southern States to exercise the asserted right of secession.

As a result of the consolidation of the Federal Government, Mr. Henry contended that the balance of power between the Northern and Southern States

would be destroyed. He pointed out the fact, that the Northern were carrying, the Southern producing, States; that their interests were different, and that the Southern States would be subjected to the Northern majority.

Another vital objection to the proposed government was, that there was not sufficient responsibility attached to the men who were to conduct it.

As to the responsibility of the Federal agents, Mr. Madison has stated the reliance of the advocates of the Constitution, as follows:

"As a security of the rights and powers of the States, in their individual capacities, against an undue preponderance of the powers granted to the government over them in their united capacity, the constitution has relied on (1) the responsibility of the senators and representatives in the legislature of the United States to the legislatures and people of the States; (2) the responsibility of the president to the people of the United States; and (3) the liability of the executive and judicial functionaries of the United States to impeachment by the representatives of the people of the States, in one branch of the legislature of the United States, and trial by the representatives of the States, in the other branch; the State functionaries, legislative, executive, and judicial, being at the same time, in their appointment and responsibility, altogether independent of the agency or authority of the United States."

Mr. Henry did not believe these constituted sufficient security to the people and the States. He pointed out the facts that the Senators were not liable to recall, nor bound to obey instructions, and

were only impeachable before the Senate itself; that the members of the House of Representatives were likewise beyond the immediate control of their constituents, and in a body representing the consolidated people of the nation, their responsibility would be so divided and weakened as to be virtually destroyed. They were not even required to publish their journal, except at their discretion. It would be easy, he said, for the representatives of Virginia to excuse their misconduct by saying that a majority controlled them, and the Northern majority regulating Southern affairs would be under no responsibility to the Southern people. In addition, no limit was put upon the pay Congress might vote itself, and the offices in the gift of the President, as well as the money of interested people and foreign nations, could be used with impunity in corrupting the members.

As to the President, Mr. Henry insisted that the immense patronage and power entrusted to him, with no limit fixed to the number of terms he might serve, and the inefficiency of an impeachment before the Senate, would enable him to entrench himself in his office. Instead of the beautiful features claimed by the Federalists for the new plan, he saw "an awful squint in its face, a squint toward monarchy."

Another grave objection was the want of sufficient checks, provided in the Constitution itself, to the improper use of Federal powers by the several departments. Mr. Henry urged that the real check to Federal usurpation must be in the State governments, and in the self-love which sustained them. The State governments, however, he declared, were

so weakened as to be inefficient for the purpose, and Federal allurements would prevail over State offices.

To protect the people in their rights of life, liberty, and property, and the States in their reserved rights, Mr. Henry and those acting with him, proposed, as we have seen, a bill of rights, and twenty additional amendments to the Constitution. As the bill of rights was substantially adopted in the first eight amendments, we can now, after a century of experience, estimate somewhat of the value it has been to the people of the United States. That it has resulted in the greatest benefit is the concurrent testimony of the highest authorities. A few may be cited. Professor Hare, one of the latest and ablest writers on constitutional law, after giving the arguments urged against the insertion of a bill of rights, adds:

"If such were the opinions of Madison and Hamilton, there were others who thought differently, and, as the result has shown, with more reason. Power, so they argued, tends not only to increase in force and volume in its onward course, but to escape through unforeseen breaks and channels from the dikes by which it is confined. The restraints should therefore be so explicit that they cannot be misunderstood." [1]

Similar testimony is borne by Judge Cooley in his valuable work on "Constitutional Limitations." [2] But that which is most conclusive is the oft-repeated testimony of the Supreme Court of the United States, in passing upon and checking the efforts of the Federal Government to break through the

[1] Hare on American Constitutional Law, i., 506. [2] Chapter ix., 255.

barriers thus erected around it. Some of the expressions of that august tribunal, in the celebrated case of *Ex-parte* Milligan,[1] will be of interest. The case arose on the application of the petitioner to be discharged from custody and sentence of death, pronounced by a military court martial, for crimes alleged to have been committed in Indiana, where he resided during the Civil War. That State was never in arms against Federal authority, yet the prisoner had been denied the right to be tried by a jury. The court, after reciting the amendments to the Constitution securing the prisoner's rights, thus proceeded:

"These securities for personal liberty thus embodied, were such as wisdom and experience had demonstrated to be necessary for the protection of those accused of crime. And so strong was the sense of the country of their importance, and so jealous were the people that these rights, highly prized, might be denied them by implication, that when the original constitution was proposed for adoption it encountered severe opposition: and, but for the belief that it would be so amended as to embrace them, it would never have been ratified.

"Time has proven the discernment of our ancestors; for even these provisions, expressed in such plain English words, that it would seem the ingenuity of man could not evade them, are *now*, after the lapse of more than seventy years, sought to be avoided. Those great and good men foresaw that troublous times would arise, when rulers and people would become restive under restraint, and seek by sharp and decisive measures to accomplish ends deemed just and proper; and that the principles of

[1] Reported in 4 Wallace, see pp. 120–21.

constitutional liberty would be in peril, unless established by irrepealable law. The history of the world had taught them that what was done in the past might be attempted in the future. The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men, at all times, and under all circumstances. No doctrine, involving more pernicious consequences, was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government."

The prisoner was discharged, Justice David Davis delivering the opinion of a bare majority of the court; while Chief Justice Chase delivered the opinion of the minority, and in doing so claimed such unbounded Federal power, that Professor Hare is prompted to say of it:

"Could Patrick Henry have foreseen the opinion of Chief Justice Chase in *Ex-parte* Milligan, and rehearsed it to the Virginia Convention, his disbelief in paper guarantees would have been confirmed, his predictions verified, and the new frame of government rejected without further debate."[1]

To these amendments, also, the citizens of the United States have often been indebted for the protection of their property. A noted instance was the suit by General George W. P. C. Lee to recover the Arlington estate, opposite the city of Washington, which had been taken by the United States Government under a void tax title, and made a national cemetery during the Civil War. When

[1] American Constitutional Law, i., 507.

General Lee sued the tenants upon the place to recover possession of his property, he was met by a plea that they held under the United States, and that the Government could not be sued. Thus one of the most important of all questions touching the property of the citizen was raised, for if the act of the Government could not even be inquired into by the courts, there was no real security for property. By a majority of one the Supreme Court sustained its jurisdiction and the able opinion of Judge Hughes, of the court below, and gave judgment in favor of General Lee.[1] To Mr. Justice Miller, who pronounced the opinion, and his four associates, who united with him in holding that the fifth amendment of the Constitution secured the right of the citizen to his property against the act of the Government, the country can never be too grateful. But in a much greater measure should our gratitude be extended to Mr. Henry, and the noble men who with him caused the amendments to be engrafted on the Constitution, which have secured the life, liberty, and property of the citizen.

The amendment securing liberty of speech and of the press, was called in requisition early in the history of the Government, when Congress and President Adams sought, by the famous sedition law, to prevent the printing or uttering of anything which might bring the United States Government into contempt or disrepute, or excite against it the hatred of the good people of the United States. As this occurred in the lifetime of Mr. Henry, and had an important bearing on the close of his political life, a fuller account of it will be given hereafter.

[1] See Lee vs. United States, 106 United States Reports, 196.

In the struggle of Mr. Henry in the Convention for the clause in the bill of rights securing the freedom of religion, we find him following up the move he had made in the Virginia Convention of 1776, and now causing a proper protection to be provided for that great principle in the supreme law of the nation. Strange to say, however, Mr. Madison, who had been his able coadjutor in 1776, was now his opponent. He claimed that a bill of rights is no security for religious freedom, and added, "Happily for the States, they enjoy the utmost freedom of religion. This freedom arises from that multiplicity of sects which pervades America, and which is the best and only security for religious liberty in any society." [1]

That Mr. Henry was the wiser of the two on this subject need not be argued now, after the experience of a century, in which the Government has been so often tempted to pander to individual sects, and has only been restrained by the first amendment.

In order to meet any improper application of the maxim, that an affirmation in particular cases implies a negation in all others, and *e converso*, and to leave no doubt as to the powers conferred on the Federal Government, and as to those retained by the people of the States, Mr. Henry and his party proposed the first and seventeenth amendments recommended by the Virginia convention. The ninth and tenth amendments, afterward adopted, were intended to enforce the same restrictions on the powers granted under the Federal Constitution. That they have been most useful, the history of the country demonstrates. In view of them Judge Story, speak-

[1] Elliott's Debates, iii., 330.

ing for the Supreme Court in Martin *vs.* Hunter,[1] said:

"The government, then, of the United States can claim no powers which are not granted to it by the Constitution, and the powers actually granted must be such as are expressly given, or given by necessary implication."

But their necessity has become more and more painfully apparent, by the unremitting effort of legislators to break over the bounds thus set to Federal power. Had they been honestly regarded by those sworn to observe them, a late declaration of the President of the Senate could not have been made with any show of truth. At the centennial celebration of the formation of the Federal Constitution, held in Philadelphia, Senator J. J. Ingalls, of Kansas, responded to the toast to "The Congress of the United States." In his speech he said:

"The constitution of 1787, under the construction of Congress and the decisions of the courts, is widely different from the constitution of 1887. It is perhaps not too much to say that we could not have survived the first century of our existence under a strict application of the written letter of the constitution. Its most remarkable feature is its elastic flexibility and its latent power, through which it has been enabled to conform to the necessities, the passions, and the aspirations of the people."[2]

The learned Senator will hardly get any unprejudiced student of our history to agree with him, that

[1] 1 Wheaton, 326.

[2] Carson's "One-hundredth Anniversary of the Constitution," ii., 376.

the nation could not have survived a strict application of the amended Constitution as written. It has been the disregard of the written instrument which has endangered the national life. And a construction which gives it an "elastic flexibility," making it "to conform to the passions and the aspirations of the people," is a disregard of the principle which lies at the bottom of governments regulated by written constitutions. The very object of a written constitution is to curb the passions and the aspirations of the people, until sober reflection shall provide, by way of amendment, for those changes which experience shall have demanded.

The amendments proposed by Mr. Henry which were not adopted, were well calculated to prevent the tyrannical use or abuse of power by the General Government, and had the most important of them been engrafted on the Constitution, would have greatly affected for the better our political history.[1]

As the power to tax is the power to destroy, Mr. Henry insisted that direct taxation and excises should not be trusted with the Federal Government, except as a punishment for failure to comply with requisitions; and to be just, requisitions should be in proportion to population. To enforce these views, the third amendment in the proposed series was drawn.

Had this been engrafted upon the Constitution, experience has shown that it would not have crippled its legitimate operations, but would have been most beneficial in its effects.

Two results would undoubtedly have followed.

[1] See vol. iii., 596.

The Federal Government would have been more economical and honest in its expenditures, and the internal revenue it might have had occasion to raise, would have been collected in a more equitable manner. The large and ever increasing commerce of the country would have furnished, under proper duties, the revenue needed, except on extraordinary occasions. And on these, what could not have been raised by loans, would undoubtedly have been contributed by the States in view of the power of direct taxation.

In order to pay the debts contracted during the Revolution, internal taxes were imposed, and they caused two serious disturbances of the Government: the Whiskey insurrection in 1794, and Fries' rebellion in 1799. In the War of 1812, and the Civil War, resort was also had to internal taxes. In each case great dissatisfaction was created. This had been, and will always be, because of the great inequality in, and oppressiveness of, the tax. In a country so vast and varied in its climate and industries, it is impossible to lay direct taxes or excises without discriminating against some industries, and in favor of others, for all cannot be taxed alike, or if they could, some would be destroyed by the burden. The result has been that these internal taxes have been particularly oppressive to some sections.

Had Mr. Henry's proposal in this regard been adopted, the money needed would have been raised in the States, in just proportions, in the mode easiest to the people, and through State officers; and Congress would not have asked for more than was necessary and proper. Thus the responsibility of

the representatives to the people would have been enforced, and the burden of taxation lightened. As it is, an army of Federal officers harass the people and interfere in their elections, in order to preserve intact their offices; and money, not needed for legitimate purposes, is wrung from one part of the people by the votes of representatives whose constituents do not feel the burden.

More important in practice has been the power to regulate commerce, and this Mr. Henry desired to restrict, by the seventh and eighth of the proposed amendments. By these, two-thirds of the whole number of the members of the Senate were required to ratify a commercial treaty, and two-thirds of the members present in both houses were required to pass navigation laws, and laws regulating commerce. Had these been adopted, the treaties and tariff bills, which have caused so much dissatisfaction, would never have been enacted. The protection of the manufactures of the North by high tariffs, at the expense of the agriculture of the South, which did so much to embitter the sections and prepare the way for the secession movement, would not have occurred. As first determined on in the Convention which framed the Constitution, it required a two-thirds vote in each house to pass any navigation act, and Congress could prohibit the slave trade. New England objected to the first, and South Carolina and Georgia to the last. By a bargain between them the slave trade was allowed for twenty years, and only a majority vote of each house was required to pass acts touching navigation.[1] To this disgrace-

[1] The Madison Papers, iii., 1395-6-7, 1415, etc.; Rives's Madison, ii., 444-452.

ful bargain, more than to anything else, may be justly attributed the ills which have afflicted the country since the adoption of the Constitution. Virginia protested against it at the time, and Mr. Henry now earnestly endeavored to right the wrong of leaving the agricultural States of the South at the mercy of the trading and manufacturing States of the North.

The interference of the General Government in Federal elections, which has been so oppressive and corrupting, would have been prevented had the sixteenth of the proposed amendments been adopted, which only allows Congress to regulate such elections when the States fail to do so.

By the eighteenth proposed amendment, Senators and Congressmen would have been prevented from increasing their own pay. And by the nineteenth, some tribunal other than the Senate would have tried impeachments of Senators.

To check the ambition of the President and the disposition to intrigue for re-elections, the thirteenth of the proposed amendments would have restricted his service to eight years in any term of sixteen. The example of Washington in refusing to serve more than two terms, seemed to fix eight years as the limit of the service of any one man, and make it the unwritten law of the land. But in our own time the effort has been made to change the rule in favor of a popular military chieftain, and possibly in the course of time the rule will be abolished, and the immense patronage and power of the President be used to prolong indefinitely the possession of the office. Should this evil day come, the forebodings of Mr. Henry will be realized.

In order to prevent collisions between the Federal

and State judiciaries, and give the latter the power of self-protection, Mr. Henry proposed the fourteenth of the series of amendments.

By this the judicial power of the United States would have been vested in a supreme court, and courts of admiralty, and would have only extended to cases arising under treaties; to cases affecting ambassadors, other foreign ministers, and consuls; to cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States, and between parties claiming lands under the grants of different States. This would have taken from the Federal courts jurisdiction in other cases arising under the Constitution and laws of Congress; in litigations between a State and citizens of another State; between citizens of different States; and between a State, or the citizens thereof, and foreign States, citizens, or subjects.

By the eleventh amendment the jurisdiction was taken away in suits against a State by citizens of another State,[1] or by citizens or subjects of a foreign State. The jurisdiction in suits between citizens of different States, might have been taken from the Federal courts without in any way interfering with the operations of the Federal government, as these are but private controversies. Not so, however, with the jurisdiction over cases arising under the Constitution and the laws of the United States. To have deprived the Federal courts of this, would have indeed crippled the United States government, and put it under the direction of the State courts. It would have, in fact, produced inextricable confu-

[1] Construed by the Supreme Court to include citizens of the State sued.

sion, as the courts of the several States, having no higher court to regulate them, would have placed various constructions on the United States Constitution and laws, and thus there would have been practically a different Federal government in each State. Nothing has contributed more to the proper and uniform working of our system of government, than the jurisdiction of the Supreme Court in cases arising under the Constitution and laws of the United States. By reason of this jurisdiction that court has been the balance-wheel of the system. Its decisions have not always been right. This is not accorded to fallible men. But no court has commanded greater respect, or served a more important purpose in the history of jurisprudence. Its power to annul acts which are unconstitutional has been the great safeguard of our political institutions, and now that it is admitted to be the final arbiter in all controversies touching the division of power between the United States and the several States, we may expect no more appeals to the sword.

It cannot be denied, therefore, that Mr. Henry and those acting with him were misled by their desire to strengthen the State governments, and had they succeeded in this amendment, would have inflicted a severe wound on the Federal system, unless indeed some other tribunal had been substituted for the Supreme Court, with jurisdiction over Federal questions. Such a tribunal might have been constituted of members appointed in equal numbers by the Federal government and the State governments, they to select an additional member.

There could be no higher proof of Mr. Henry's political sagacity, than the verification of his pre-

dictions as to the working of the Federal system. To fully appreciate his foresight would require a study of the government for a century. A short reference to the most important of his predictions may be made, however.

Mr. Madison urged that, as the Constitution only vested certain powers in the Federal government, necessary for the government and protection of the United States, Congress would be confined to the enumerated powers. But Mr. Henry replied that Congress would not confine itself to the enumerated powers, but would claim implied powers, and would abuse their use. He dwelt upon the certainty that Congress would construe the clauses empowering it "to lay and collect taxes, etc.; . . to pay the debts and provide for the common defence and welfare;" and "to make all laws which shall be necessary and proper for carrying into execution the powers vested," etc., so as to transcend the enumerated powers, and to exercise implied powers in the most dangerous manner.

The construction predicted by Mr. Henry was advocated by Hamilton in the beginning of the government,[1] and at once gave direction to its conduct. As early as 1798 Mr. Madison, in the resolutions he prepared for the Virginia Legislature, used this language:

"The General Assembly doth also express its deep regret that a spirit has, in sundry instances, been manifested by the Federal government to enlarge its powers by forced constructions of the constitutional charter which defines them; and that

[1] See his report of December 5, 1791, on Manufactures.

indications have appeared of a design to expound certain general phrases (which having been copied from the very limited grant of powers in the former Articles of Confederation, were the less liable to be misconstrued) so as to destroy the meaning and effect of the particular enumeration which necessarily explains and limits the general phrases, and so to consolidate the States by degrees into one sovereignty, the obvious tendency and inevitable result of which would be to transform the present republican system of the United States into an absolute, or at least a mixed, monarchy." [1]

Could Mr. Henry's great opponent have given more explicit testimony to his superior wisdom? And if there was any ground for this arraignment of the Federal government in 1798, how much more is there now?

In the case of McCulloch *vs.* The State of Maryland,[2] decided in 1819, Chief Justice Marshall, delivering the opinion of the Supreme Court, held that although the Constitution gave no express authority to create corporations, yet Congress might properly charter a bank under its implied powers, in order to facilitate the collection, transmission, and safe-keeping of the revenue of the United States, required by the Constitution to be raised. This was considered by many a most dangerous advance in the assumption of powers not granted to the General government. But the doctrine was tempered by the following declaration of the court:

"The power of creating a corporation, though appertaining to sovereignty, is not, like the powers of making war or levying taxes, or of regulating

[1] Madison's Works, iv., 506. [2] 4 Wheaton, 316.

commerce, a great substantive and independent power, which cannot be implied as incidental to other powers, or used as a means of executing them."

It follows, that if a power is granted in the Constitution in terms importing a limitation or a qualification, it cannot be exercised as incidental to some other power, disregarding the limitation or qualification annexed to the express grant.[1] But this apparently self-evident proposition has long since been discarded, and now Congress exercises as incidental to express powers, other express powers, without regard to the limitations imposed on the latter.

An illustration is furnished by the protective tariff system. The power of taxation by duties, etc., is expressly given to enable Congress "to pay the debts and provide for the common defence and general welfare of the United States." It has been well said, "It is inherent in the idea of taxation that it should be for the public good; and a law taxing one set of men for the benefit of another, or in furtherance of an industrial enterprise in which they were engaged, would be regarded as confiscation in all civilized countries."[2] This has been frequently held by the Supreme Court as the true theory of taxation, in cases arising on enactments of municipal bodies which imposed taxation to aid private enterprises. In one of these,[3] that court said, "To lay with one hand the power of government on the property of the citizen, and with the other to bestow it upon favored individuals to aid private enterprises and build up private fortunes,

[1] Judge Sharswood in Borie vs. Trott, 5 Philadelphia, 397.

[2] Hare : American Constitutional Law, 1280.

[3] Loan Association vs. Topeka, 20 Wall., 655.

is none the less a robbery because it is done under the forms of law and called taxation." It follows that Congress, under the express grant of the power of taxation, can only lay duties to raise needed revenue, and that any protection to American industries must be incidental to this exercise of an express power. But Congress has also the power to regulate commerce, and in doing so it claims an incidental power to lay duties on imports. The exercise of this incidental power has not been limited to the raising of revenue, but has been frequently used for the protection of American industries from foreign competition, even to the reduction or destruction of the revenue which might be drawn from the particular duty. Thus Congress, by means of a protective tariff, prevents cheap foreign articles from being sold in competition with American products, and enables the American manufacturer to sell his goods at higher rates. This is in effect taxing the consumer for the benefit of the producer or manufacturer, the taking of one man's property and bestowing it on another. Whatever may have been the reasons which impelled Congress to this course, and it may be admitted that the body acted with the greatest wisdom in the view of certain political economists, the fact cannot be disputed that such an exercise of an express as an implied power, without its accompanying restriction, has been the fulfilment of the prediction of Mr. Henry.

One of Mr. Henry's predictions as to the exercise of implied powers was very remarkable. He said :

"Among ten thousand implied powers which they may assume, they may, if we be engaged in war,

liberate every one of your slaves if they please. And this must and will be done by men, a majority of whom have not a common interest with you. . . . Have they not power to provide for the general defence and welfare? May they not think that these call for the abolition of slavery? May they not pronounce all slaves free, and will they not be warranted by that power?"

The reader need not be reminded that this has literally come to pass in the manner foretold, by the emancipation proclamation of President Lincoln during the civil war, which was enforced by Congressional enactments and Federal armies.

Mr. Henry also foretold that the Federal government would oppress the States, using a "standing army to execute the execrable commands of tyranny." This, too, has been literally fulfilled.

The civil war came to an end in 1865, and on April 2, 1866, the President of the United States by his proclamation declared, "that the insurrection which heretofore existed in the States of Georgia, South Carolina, Virginia, North Carolina, Tennessee, Alabama, Louisiana, Arkansas, Mississippi, Texas, and Florida, is at an end, and is henceforth to be so regarded."

These States, which had formed the "Confederate States," had been treated by the Federal government, in all its departments, as still members of the United States, and their ordinances of secession null and void. They had continued under the same forms of State governments that had existed before the war, except that a government for Virginia had been set up at Alexandria, under Governor Pier-

point, which adopted a modified constitution. This last was recognized by the Federal government as the true government of Virginia, both during and after the war. Nevertheless Congress, on March 2, 1867, passed an act, declaring "that no legal State government, or adequate protection for life or property," now exists in these States, and dividing them into five military districts, of which Virginia was number one. Over these the act directed the President to appoint officers of the army, who were authorized to use local civil tribunals, or military commissions, at their pleasure, to protect persons in their rights of person and property, etc. This act also provided that, when these several States should have called conventions, to be elected by the votes of all persons, regardless of race or previous condition, who had attained twenty-one years of age, and were not disfranchised by participation in the rebellion, or by felony; and these had framed constitutions which should have been adopted by a majority of such voters, granting the elective franchise to the same description of persons, and the same had been approved by Congress; and when the legislatures of these States, elected under such new constitutions, should have adopted the proposed amendment to the United States Constitution, known as the Fourteenth, and the same should have become a part of the Constitution, then the said States should be entitled to representation in Congress. Until these States were thus admitted to representation in Congress, it was provided that "any civil governments which may exist therein shall be deemed provisional only, and in all respects subject to the paramount authority of the United States at any

time to abolish, modify, control, or supersede the same."[1]

This act was plainly intended to force upon the South unlimited negro suffrage through the fourteenth amendment. A more open and tyrannical violation of the Constitution can hardly be conceived.

The State of Mississippi filed a bill in the Supreme Court, praying that the President be enjoined from enforcing it, on the ground of its unconstitutionality, and its destruction of State government. This was refused, the court holding that it had no power to enjoin the President. The question of the validity of the act was afterward raised by one McArdle, who was arrested and held for trial before a military commission, appointed by the general commanding in Mississippi. After the case was argued before the Supreme Court of the United States, and before an announcement was made of its decision, Congress, doubtless believing that the court would decide against the act, repealed the law allowing it jurisdiction in the case,[2] and thus prevented their violation of the Constitution from being exposed by this high tribunal. The Southern States were thus left to the mercy of Congress unrestrained by constitutional limitations, which for ten years used in them a "standing army to execute the execrable commands of tyranny."

In the control given Congress over the manner of holding Federal elections, Mr. Henry foresaw the danger which is now engaging the earnest attention of the country, and is dividing political parties.

[1] Statutes at Large, Thirty-ninth Congress, 428.
[2] Ex parte McArdle, 7 Wall., 506.

In delivering the judgment of the Supreme Court in *ex parte* Yarbrough,[1] Justice Miller claimed for Congress such far-reaching power in the conduct of elections, that Professor Hare is led to say of it:

"It may be inferred from this decision that Congress may regulate the election of the electoral colleges and State legislatures, because the former choose the President and the latter the senators of the United States, and the duty which the voter performs in casting his ballot in either case concerns the general Government as well as the State. Such a conclusion may be logical, but was seemingly not anticipated by the framers of the Constitution, or the conventions which ratified it."[2]

The great danger to the country lies in the temptation to the political party controlling Congress to so manipulate the elections as to perpetuate its powers.

Another danger in Federal elections, foreseen by Mr. Henry, was the improper use of money. He predicted that rich men would carry the elections and constitute an aristocracy of wealth. As the country has become richer, this has been more and more sadly realized, and it is now admitted to be one of the greatest dangers to the Republic. Bribery in elections has become open and shameless, and the most conspicuous corruptors of the people, instead of being relegated to infamy, are too often rewarded by high official positions.

Mr. Henry insisted that the guards against the profligate use of public money were not sufficient,

[1] 110 United States Reports, 651.

[2] Hare: American Constitutional Law, i., 528.

there being no security offered but the honesty of rulers, a poor dependence. An examination of the appropriation bills since the adoption of the Constitution will demonstrate the wisdom of his warning in this regard, and the rapid growth of the evil.

The conduct of the Northern members of Congress, especially in the matter of the Mississippi, induced Mr. Henry to predict, that under a government which subjected the South to the will of a Northern majority, that majority having different interests, would never consent to Southern aggrandizement.

The history of the country may be appealed to for the fulfilment of this prophecy, and the justification of the fears he expressed.

Mr. Henry's declaration that the Federal Government "squints toward monarchy," is now, after a century of trial, admitted to be true by writers on the subject. Professor Hare, in his work heretofore cited, after stating that in England the prime minister is the responsible executive officer, and that he is controlled by the House of Commons, adds:

"Our system, on the contrary, intrusts the executive department of the government to a chief magistrate, who, during his term of office, and so far as his power extends, is virtually a king. . . . When President Polk precipitated hostilities with Mexico by marching an army into the disputed territory, Congress had no choice but to declare the existence of the war which he had provoked, and which they had no power to terminate. . . . A chief magistrate who wields the whole military, and no inconsiderable share of the civil power, of the State, who can incline the scale to war and forbid the return of

peace, whose veto will stay the course of legislation, who is the source of the enormous patronage which is the main lever in the politics of the United States, exercises functions more truly regal than those of an English monarch. . . . Elect such a magistrate for life, or give him a permanent hold on office, and he may be termed Mr. President, but will be every inch a king. . . . No one can read the judicial decisions which treat of the chief magistrate without seeing that he may exercise a large discretion even in peace; and his authority as commander-in-chief during war and insurrection is, agreeably to the same judgments and the practice of Mr. Lincoln's cabinet, as indefinite and arbitrary as that exercised by the Roman Consuls when instructed to take care that the Republic should not suffer harm."[1]

The interference of the Federal with the State judiciary, and the encroachment of the former upon the latter, were foretold by Mr. Henry, and his fears have proved to be well founded. The jurisdiction of the Federal judiciary in all cases arising under the constitution and laws of Congress, has been shown to be wise, as securing uniformity to the operation of the government. But there was no such need for clothing the Federal courts with jurisdiction in cases arising between citizens of different States, regardless of the grounds of the litigation. It was given because of distrust of the State courts. The result has been, that a large part of the business in the Federal courts comes under this head, and in the broad range taken, many conflicts have occurred in the rulings of the two sets of tribunals. The Federal courts consider themselves bound gen-

[1] American Constitutional Law, 171–174.

erally to follow the decisions of the State courts, on questions arising under their constitutions and laws, but not bound to follow such decisions upon questions of general jurisprudence. This conflict brings the administration of justice into disrepute by making the result of causes depend upon the forum where they are instituted. The disgraceful spectacle is sometimes presented of a plaintiff, against whom the judge has charged the jury, taking a nonsuit, and bringing a new suit in a different tribunal and there obtaining a judgment in his favor.

Not only is the jurisdiction of the State courts interfered with in this way, but by the act of Congress for the removal of causes from State to Federal courts, suits originally brought in the State courts are liable to removal when they might have been originally brought in the Federal courts. This interference is also seen in the powers exercised by the Federal courts in some cases to enjoin the action of State courts, and to discharge upon writs of habeas corpus prisoners held under State prosecutions. The jurisdiction given to Federal courts in "controversies between a State and citizens of another State," was objected to by Mr. Henry as authorizing suits against a State by citizens of other States. This construction was opposed by both Madison and Marshall, who contended that it only referred to suits brought by a State as plaintiff.[1] In 1793 the question was raised before the Supreme Court, in the case of Chisholm *vs.* The State of Georgia, when the view of Mr. Henry was followed by the court. This caused the adoption of the elev-

[1] Elliott's Debates, iii., 533–555.

enth amendment, divesting the Federal courts of jurisdiction in such cases.

These are some of Mr. Henry's predictions as to the working of the unamended Constitution, and in considering what he foretold we must take into account the effect of the amendments that were adopted. His great aim was to engraft such amendments as would protect the rights of the people and of the States from the great power called into existence, and to render that power an instrument for good only. He valued the Union as the child of his loins, but he valued liberty more, and he labored to preserve both by making union the handmaid of liberty.

CHAPTER XXXVIII.

STRUGGLE FOR AMENDMENTS.—1788, 1789.

Meeting of Legislature in Extra Session.—Governor Clinton's Letter.—Convention of New York.—Recommends Another Federal Convention.—Convention of North Carolina.—Demands Previous Amendments.—Mr. Henry's Attitude.—Fears of the Federalists Concerning Him.—Meeting of Legislature in October, 1788.—Course Pursued by Mr. Henry to Obtain Amendments.—Passage Between him and Francis Corbin.—Reply to Governor Clinton's Letter.—Election of Senators.—Mr. Madison's Pledge to Support Amendments.—Mr. Henry's Letter to R. H. Lee, giving Reason for Opposing Madison.—Districting the State.—Mr. Madison's District.—Letters of Decius.—Condemned by Federalists.—Dignified Course of Mr. Henry Under the Slanderous Attack.

THE Legislature of the State had been called to meet in extra session on June 23, to consider the protest of the judges of the Court of Appeals against an act for the establishment of District Courts. So great was the desire to listen to the closing debates in the Convention, that no quorum could be gotten in the House till the 24th, nor in the Senate till next day. The House received the Governor's message on the 24th, but adjourned without reading its accompanying papers. After the vote of the Convention for ratification on the 25th, the Legislature was enabled to proceed to business. It was then that the body learned, from the Governor's communication, of the letter of Governor Clinton of May 8, inviting a conference between the Virginia and New York Conventions on the

subject of the Federal Constitution, which had been withheld from the Convention. A resolution censuring Governor Randolph for this was drafted by George Mason, and is still preserved among his papers,[1] but the Journal does not show that it was offered. His course added to the bitterness which his conduct in the Convention had aroused, and we find Colonel Mason in his private correspondence alluding to him as "the little Arnold."[2]

The Legislature did little besides suspending the act constituting the District Courts, and sat only six days.

The Convention of New York met June 17, at Poughkeepsie. Of the sixty-five members two-thirds were opposed to unconditional ratification. Governor George Clinton led the opposition, and Alexander Hamilton led the Federalists. Both were ably supported by men of great ability. On the 24th news came of the ratification by New Hampshire, as the ninth State, but it did not decide the Convention. "Our chance of success depends on you," wrote Hamilton to Madison. On July 3, news was received of the action of Virginia. The opposition now offered a bill of rights and numerous amendments, some of which were to be made conditions of ratification. This was opposed by a motion to ratify and recommend amendments, and this again by a motion to ratify with a reservation of the right to secede, if the desired amendments should not be accepted. To meet this Hamilton consulted Madison, and read to the Convention his

[1] Kindly shown me by Miss Kate Mason Rowland, who is preparing a Life of George Mason.

[2] Letter in possession of Miss K. M. Rowland.

written opinion, that a conditional ratification would not make New York a member of the new union.[1] Finally, on July 25, a compromise was made, and the Convention agreed to ratify, propose amendments, more numerous than those of Virginia, and order a circular letter to be sent to the legislatures of the several States, recommending the call of another General Convention to act upon the amendments proposed by the States. The vote ordering this letter was unanimous.

The North Carolina Convention met July 21, and consisted of two hundred and eighty members, with a large majority opposed to ratification without amendments. The Federal forces were led by James Iredell, a man of great ability and learning. The opposition was led by Willie Jones, of Halifax, the most influential man in the State. Possessed of great wealth and consummate knowledge of human nature, he was a born leader of men. An aristocrat in his habits, he was an ultra democrat in his theory of government. The influence of Virginia upon this State was admitted by the Federalists, who considered its adoption of the new Constitution doubtful from the time that the action of the Virginia Legislature at its session in 1787 was received.[2] Mr. Jones read a letter of Mr. Jefferson, wishing that nine States might ratify and the rest hold aloof for amendments. Upon his motion the Convention, on August 2, deferred ratification, and proposed amendments similar to those of Virginia, by a vote of 184 against 84. There can be no doubt that this step was taken upon the advice of the advocates for

[1] See extract, p. 368. ante, and Hamilton's Works, i., 465.

[2] McKee's Life of Iredell, ii., 217.

amendments in Virginia and New York; and the intimate knowledge of North Carolina sentiment indicated in the letter of Mr. Henry to General Lamb, in June, shows that he was in personal correspondence with the republican leaders of that State. Indeed, Mr. Madison did not hesitate to ascribe the action of North Carolina, in part at least, to Mr. Henry's management.[1]

The sincerity of Mr. Henry's declaration in taking leave of the Convention, that he would live under the Federal Constitution a peaceable citizen, was soon put to the test. The following incident has been preserved by a contemporary, David Meade Randolph:

"In the evening of the day of the final vote (in the Convention), General Meade[2] and Mr. Cabell assembled the discontents in the old senate chamber, and after a partial organization of the party, a deputation was sent to Patrick Henry, inviting him to take the chair. The venerable patriot accepted. Understanding that it was their purpose to concert a plan of resistance to the operations of the Federal government, he addressed the meeting with his accustomed animation upon important occasions, observing 'he had done his duty strenuously in opposing the constitution, in the proper place, and with all the powers he possessed. The question had been fully discussed, and settled, and that, as true and faithful republicans, they had all better go home; they should cherish it and give it fair play, support it too, in order that the Federal administration might be left to the untrammelled and free exercise of its functions,' reproving, moreover, the half-

[1] Madison's Works, i., 411, Letter to Jefferson, August 23, 1788.
[2] Doubtless General Richard Kidder Meade.

suppressed factious spirit which he perceived had well-nigh broken out. The impressive arguments of Mr. Henry produced the gratifying effect he had hoped for." [1]

But while Mr. Henry set his face against all factious opposition to putting the new Constitution in operation, he was unremitting in his efforts to procure the amendments he deemed of such vital importance. His meeting with the Legislature in extra session satisfied him that the body was of his views, and he had but to wait for its regular session to embody them in acts. The private correspondence of the Federalists reveals their fear and suspicion of him, and conduct which had for its single object the engrafting upon the Constitution of the proposed amendments, was interpreted as designed for the overturning of the system. Thus Madison wrote to Washington on June 27, the day of adjournment: "The minority are to sign an address this morning, which is announced to be of a peace-making complexion. Having not seen it, I can give no opinion of my own. I wish it may not have a further object. Mr. Henry declared, previous to the final question, that although he should submit as a quiet citizen, he should seize the first moment that offered for shaking off the yoke in a *constitutional way*. I suspect the plan will be to engage two-thirds of the Legislatures to the task of undoing the work; or to get a Congress appointed in the first instance that will commit suicide on their

[1] Southern Literary Messenger, i., 332. This account was also substantially given by Mr. Richard Venable, of Prince Edward County, to Hon. James W. Bouldin, who related it in a letter to the author's father.

own authority."[1] On July 24, he wrote from New York to Jefferson:

"Although the leaders, particularly Henry and Mason, will give no countenance to popular violence, it is not to be inferred that they are reconciled to the event, or will give it a positive support. On the contrary, both of them declared they could not go that length, and an attempt was made under their auspices to induce the minority to sign an address to the people, which, if it had not been defeated by the general moderation of the party, would probably have done mischief."[2]

Mr. Madison had evidently not been informed that Mr. Henry prevented the meeting from sending out the proposed address.

When the proposal of New York for a second Federal Convention became known, fresh alarm was manifested on the part of the Federalists. Madison wrote to Washington from New York, August 15:

"You will have seen the circular letter from the convention of this State. It has a most pestilent tendency. If an early general convention cannot be parried, it is seriously to be feared that the system which has resisted so many direct attacks may be at last successfully undermined by its enemies."[3]

On the other hand, the proposal was hailed with delight by the anti-Federalists.

As the time approached for the meeting of the Assembly, the fear of Mr. Henry's influence seemed to fill the breasts of his opponents. No one was

[1] Madison's Works, i., 402. [2] Idem, 405. [3] Idem, 410.

more troubled with it than Washington. A visit to Mount Vernon by Edward Carrington, one of the most active of Mr. Henry's opponents, seems to have resulted in a plan to counteract his influence, if possible. Carrington wrote to Madison, October 19, *en route* to Richmond, to take a seat in the Legislature:

"I left Mount Vernon on Friday; during my stay there I had much conversation with the General upon the probable politics of the Assembly, with respect to the constitution. He is fully persuaded that anti-federalism will be the actuating principle, and that great circumspection is necessary to prevent very mischievous effects from a co-operation in the insidious proposition of New York. He is particularly alarmed from a prospect of an election for the Senate, entirely anti-Federal. It is said in this part of the State that Mr. Henry and Mr. R. H. Lee are to be pushed. I believe it is founded only in conjecture, but the General is apprehensive it may prove true; that to exclude the former will be impossible; and that the latter being supported by his influence, will also get in, unless a Federalist very well established in the confidence of the people can be opposed. He is decided in his wishes that you may be brought forward upon this occasion."[1]

The apprehensions of Washington were expressed in his private letters, and he was evidently alarmed lest Mr. Henry should make the shipwreck of the new plan. In a letter to Madison, September 21, 1788, he urges the election of Federalists to Congress, and adds: "To be shipwrecked in sight of the port would be the severest of all possible aggra-

[1] Bancroft's Constitution, ii., 480.

vations to our misery, and I assure you I am under painful apprehensions from the single circumstance of Mr. Henry having the whole game to play in the Assembly of this State; and the effect it may have in others should be counteracted if possible."[1] Misled by men who could not appreciate the patriotism and political wisdom of Mr. Henry, Washington thus gave into their suspicions; but he lived to call upon Mr. Henry to aid him in preventing the shipwreck of the Federal system by some of the men who now claimed that such was Mr. Henry's object.

The Legislature met October 20, and Mr. Henry at once entered upon his usual active service as a member. He was chairman of the Committee of Courts of Justice, and a member of four other of the standing committees. As was feared by the Federalists, he at once showed himself the master spirit of the Assembly. On October 29, he declared "that he should oppose every measure tending to the organization of the Government, unless accompanied with measures for the amendment of the Constitution; for which purpose he proposed that another general convention of deputies from the different States shall be held, as soon as practicable."[2] The resolutions he offered for this purpose had the following preamble:

"Whereas, the convention of delegates of the people of this commonwealth did ratify a constitution or form of government for the United States, re-

[1] Writings of Washington, ix., 433.

[2] Letter of Charles Lee to Washington, October 29, 1888; Correspondence of the Revolution, iv., 240.

ferred to them for their consideration, and did also declare that sundry amendments to exceptionable parts of the same ought to be adopted. And whereas, the subject-matter of the amendments agreed to by the said convention involves all the great essential and unalienable rights, liberties, and privileges of freemen, many of which, if not cancelled, are rendered insecure under the said Constitution until the same shall be altered and amended."

The first resolution was as follows:

"That for quieting the minds of the good citizens of this commonwealth, and securing their dearest rights and liberties, and preventing those disorders which must arise under a government not founded on the confidence of the people, application be made to the Congress of the United States, as soon as they shall assemble under the said constitution, to call a convention for proposing amendments to the same according to the mode therein directed."

Then followed resolutions for appointing a committee to draft a proper application to Congress, a reply to Governor Clinton's communication as president of the New York Convention, and a circular to the other States.[1] These resolutions were a bitter pill to the Federalists, for they not only asked for the dreaded new convention, but described the friends of the proposed plan as betrayers of the dearest rights of the people. When they came up for action the Federalists offered as a substitute a resolution calling on Congress to pass an act, "recommending to the Legislatures of the sev-

[1] Journal of the House of Delegates, 16.

eral States the ratification of a bill of rights, and of certain articles of amendment proposed by the Convention of this State for the adoption of the United States, and that until the said act shall be ratified in pursuance of the fifth article of the said constitution of government for the United States, Congress do conform their ordinances to the true spirit of the said bill of rights." [1]

Thus the Federalists were forced to urge the adoption of Mr. Henry's proposed amendments, to avoid the danger of a new convention. But they did not succeed in defeating his call for another convention. The vote was 39 for the substitute, and 85 against it, and Mr. Henry's resolutions were then carried without division.

During the animated debate which arose upon these resolutions, an incident occurred which illustrated Mr. Henry's power of acting. It will be best related in the words of Mr. Wirt.

"It was in the course of the debate which has been just mentioned, that Mr. Henry was driven from his usual *decorum* into a retaliation, that became a theme of great public merriment at the time, and has continued ever since one of the most popular anecdotes that relate to him. He had insisted, it seems, with great force, that the speedy adoption of the amendments was the only measure that could secure the great and inalienable rights of the freemen of this country—that the people were known to be exceedingly anxious for this measure—that it was the only step that could reconcile them to the new constitution—and assure that public content-

[1] Journal, 16, 17.

ment, security and confidence, which were the sole objects of the government, and without which no government could stand—that whatever might be the individual sentiments of gentlemen, yet the wishes of the people, the foundation of all authority, being known, they were bound to conform to those wishes—that, for his own part, he considered his opinion as nothing when opposed to those of his constituents; and that he was ready and willing, *at all times* and *on all occasions* '*to bow, with the utmost deference, to the majesty of the people.*' A young gentleman on the Federal side of the house,[1] who had been a member of the late convention, and had in that body received, on one occasion, a slight touch of Mr. Henry's lash, resolved now, in an ill-fated moment, to make a set charge upon the veteran, and brave him to the combat. He possessed fancy, a graceful address, and an easy, sprightly elocution; and had been sent by his father (an opulent man, and an officer of high rank and trust under the regal government) to finish his education in the colleges of England, and acquire the polish of the court of St. James; *where he had passed the whole period of the American Revolution.* Returning with advantages which were rare in this country, and with the confidence natural to his years presuming a little too far upon those advantages, he seized upon the words 'bow to the majesty of the people,' which Mr. Henry had used, and rung the changes upon them with considerable felicity. He denied the solicitude of the people for the amendments so strenuously urged on the other side; he insisted that the people thought their '*great* and *unalienable rights*' sufficiently secured by the constitution which they had adopted; that the preamble of the constitution itself, which was now to be

[1] Francis Corbin, a son of the colonial receiver general from whom Mr. Henry had forced a remuneration for the gunpowder in 1775.

considered as the language of the people, declared its objects to be, among others, the security of those very rights; the people then declared the constitution the guarantee of their rights; while the gentleman, in opposition to this public declaration of their sentiments, insists upon his *amendments* as furnishing that guarantee; yet the gentleman tells us that 'he bows to the majesty of the people.' These words he accompanied with a most graceful bow. 'The gentleman,' he proceeded, 'had set himself in opposition to the people throughout the whole course of this transaction; the people approved of the constitution: the suffrage of their constituents in the last convention had proved it; the people wished, most anxiously wished, the adoption of the constitution as the only means of saving the credit and honour of the country, and producing the stability of the Union. The gentleman, on the contrary, had placed himself at the head of those who opposed its adoption—*yet, the gentleman is ever ready and willing, at all times and on all occasions, to bow to the majesty of the people*' (with another profound and graceful bow). Thus he proceeded, through a number of animated sentences, winding up each one with the same words, sarcastically repeated, and the accompaniment of the same graceful obeisance. Among other things, he said 'it was of little importance whether a country was ruled by a despot with a tiara on his head, or by a demagogue in a red cloak, a caul-bare wig,' &c. (describing Mr. Henry's dress so minutely as to draw every eye upon him) 'although he *should profess on all occasions to* bow to the *majesty of the people.*'

"A gentleman who was present and who, struck with the singularity of the attack, had the curiosity to number the vibrations on those words, and the accompanying action, states that he counted thirteen of the most graceful bows he had ever beheld.

The friends of Mr. Henry considered such an attack on a man of his years and high character as very little short of sacrilege; on the other side of the house, there was, indeed, a smothered sort of dubious laugh, in which there seemed to be at least as much apprehension as enjoyment. Mr. Henry had heard the whole of it without any apparent mark of attention.

"The young gentlemen having finished his philippic, very much at least to his own satisfaction, took his seat with the gayest expression of triumph in his countenance:

"*Heu! Nescia mens hominum fati; sortisque futuræ!*

"Mr. Henry raised himself up heavily, and with affected awkwardness—'Mr. Speaker,' said he, 'I am a plain man, and have been educated altogether in Virginia. My whole life has been spent among Planters, and other plain men of similar education, who have never had the advantage of that polish which a court alone can give, and which the gentleman over the way has so happily acquired; indeed, sir, the gentleman's employments and mine (in common with the great mass of his countrymen) have been as widely different as our fortunes; for while that gentleman was availing himself of the opportunity, which a splendid fortune afforded him, of acquiring a foreign education, mixing among the great, attending levees and courts, *basking in the beams of royal favor at St. James'*, and exchanging courtesies with crown heads (here he imitated Mr. Corbin's bows at court, making one elegant, but most obsequious and sycophantick bow),[1] I was engaged in the arduous toils of the revolution; and was probably as far from thinking of acquiring those polite accomplishments, which the gentleman

[1] This upon the authority of William L. Tabb, of Mecklenburg, who was present.

has so successfully cultivated, as that gentleman *then* was from sharing in the toils and dangers in which his *unpolished countrymen* were engaged. I will not therefore presume to vie with the gentleman in those courtly accomplishments, of which he has just given the house so agreeable a specimen; yet such a bow as I can make, shall ever be at the service of the people.' Herewith, although there was no man who could make a more graceful bow than Mr. Henry, he made one so ludicrously awkward and clownish, as took the house by surprise and put them in a roar of laughter. 'The gentleman, I hope, will commiserate the disadvantages of education under which I have labored, and will be pleased to remember that I have never been a favorite with that monarch, whose gracious smile he has had the happiness to enjoy.' He pursued this contrast of situations and engagements, for fifteen or twenty minutes, without a smile, and without the smallest token of resentment, either in countenance, expression, or manner. 'You would almost have sworn,' says a correspondent, 'that he thought himself making his apology for his own awkwardness, before a full drawing-room at St. James'. I believe there was not a person that heard him, the sufferer himself excepted, who did not feel every risible nerve affected. His adversary meantime hung down his head, and sinking lower and lower, until he was almost concealed behind the interposing forms, submitted to the discipline as quietly as a Russian malefactor who had been beaten with the knout till all sense of feeling was lost."

Judge Roane, who witnessed the scene, says, "It exceeded anything of the kind I ever heard. He spoke and acted his reply, and Corbin sank at least a foot in his seat."

On November 14, the communication to Congress,

the reply to Governor Clinton's letter, and the circular letter to the States, all written by Mr. Henry, were approved by the House. The last two were short and need not be given,[1] but the first is worthy of insertion, as exhibiting, in the words of Mr. Henry, the spirit and purpose of a measure then, and since, so greatly misconstrued. It is as follows:

To the Congress of the United States.

"The good people of this commonwealth in convention assembled, having ratified the constitution submitted to their consideration, this Legislature has in conformity to that act, and the resolutions of the United States in Congress assembled to them transmitted, thought proper to make arrangements that were necessary for carrying it into effect. Having thus shown themselves obedient to the voice of their constituents, all Americans will find, that so far as it depends on them, that plan of government will be carried into immediate operation.

"But the sense of the people of Virginia, would be but in part complied with, and but little regarded, if we went no further. In the very moment of adoption, and coeval with the ratification of the new plan of government, the general voice of the convention of this state, pointed to objects, no less interesting to the people we represent, and equally entitled to your attention. At the same time, that from motives of affection for our sister states, the convention yielded their assent to the ratification, they gave the most unequivocal proofs, that they dreaded its operation under the present form.

"In acceding to a government under this impres-

[1] See them in Wirt's Life of Henry, 326–327.

sion, painful must have been the prospect, had they not derived consolation from a full expectation of its imperfections being speedily amended. In this resource, therefore, they place their confidence. A confidence that will continue to support them, whilst they have reason to believe they have not calculated upon it in vain.

"In making known to you the objections of the people of this commonwealth to the new plan of government, we deem it unnecessary to enter into a particular detail of its defects, which they consider as involving all the great and unalienable rights of freemen. For their sense on this subject we refer you to the proceedings of their late convention, and the sense of this General assembly, as expressed in their resolutions of the 30th day of October.

"We think proper, however, to declare that, in our opinion, as those objections were not founded in speculative theory, but deduced from principles which have been established by the melancholy example of other nations, in different ages—so they never will be removed, until the cause itself shall cease to exist. The sooner therefore the public apprehensions are quieted, and the government is possessed of the confidence of the people, the more salutary will be its operations, and the longer its duration.

"The cause of amendments we consider as a common cause, and since concessions have been made from political motives, which *we* conceive may endanger the republic; we trust that a commendable zeal will be shown for obtaining those provisions, which experience has taught us, are necessary to secure from danger the unalienable rights of human nature.

"The anxiety with which our countrymen press for the accomplishment of this important end, will ill admit of delay. The slow forms of Congressional

discussion and recommendation, if indeed they should ever agree to any change, would we fear be less certain of success. Happily for their wishes, the constitution hath presented an alternative, by submitting the decision to a convention of the states. To this therefore, we resort, as the source from whence they are to derive relief from their present apprehensions. We do therefore, in behalf of our constituents, in the most earnest and solemn manner, make this application to Congress, that a convention be immediately called of deputies from the several states, with full power to take into their consideration the defects of this constitution that have been suggested by the state conventions, and report such amendments thereto, as they shall find best suited to promote our common interests, and secure to ourselves and our latest posterity, the great and unalienable rights of mankind."

On October 31, the day after the House had committed itself to another convention, Mr. Henry called up the resolutions for the election of presidential electors and members of Congress, which had been agreed on in Committee of the Whole on the 28th, and passed by to enable him to forward the movement for amendments. Contrary to the wishes of the Federalists he caused the State to be divided into twelve districts for the selection of presidential electors, and ten districts for the selection of members of Congress, and in either case the person chosen by the district was required to be a resident. A committee of fifteen was appointed to district the State, of whom seven were staunch Federalists. On the next day Mr. Henry moved that they proceed to the election of United States Senators on the following Saturday.

The friends of Mr. Madison had determined to act upon the advice of General Washington and put him in nomination, and to offer no other name. Mr. Madison seems to have had little hope of success, yet he wrote a letter to George Lee Turberville, a member of the House, on November 2, which by an artful concealment of his views was designed, if possible, to conciliate the body, and procure his election. In it he said, "I am not of the number, if there be any such, who think the Constitution lately adopted a faultless work. On the contrary, there are amendments which I wished it to have received before it issued from the place in which it was formed. These amendments, I still think, ought to be made according to the apparent sense of America; and some of them at least, I presume will be made. There are others concerning which doubts are entertained by many, and which have both advocates and opponents on each side of the main question. These, I think, ought to receive the light of actual experiment, before it would be prudent to admit them into the Constitution."[1] He then declared against another convention. This letter, designed to be used in the Legislature, was very different from others written in confidence. On June 27, he wrote to Washington, enclosing a copy of the act of ratification and adding, "A variety of amendments have been since recommended, several of them highly objectionable, but which could not be parried."[2] On the same day he wrote to Alexander Hamilton, enclosing him also a copy and adding, "It has been followed by a number

[1] Rives's Madison, ii., 643; Madison's Works, i., 433.
[2] Madison's Works, i., 402.

of recommendatory alterations, many of them highly objectionable. One the most so is an article prohibiting direct taxes when effectual laws shall be passed by the States for the purpose."[1]

Mr. Henry's service with Mr. Madison in the convention and committee-room had fully informed him of his views, and he, very naturally, was unwilling to trust the fate of the proposed amendments to his care, with his avowed hostility to some of the most important of them. Nor was he satisfied with the position Mr. Madison took in his letter to Mr. Turberville, nor with the forced vote of the Federalists in the House in favor of the amendments. When the election of Senators came on, declining the honor himself, he put in nomination Richard Henry Lee, and William Grayson; and when Mr. Madison was also nominated he delivered, according to tradition, a tremendous philippic against him.[2] The incidents of the election were reported November 10, to Mr. Madison, by Governor Randolph, who, with Pendleton, seems to have at first favored another convention. He wrote:

"On Thursday last the candidates for the Senate were nominated, and Mr. Henry, after expatiating largely in favor of Mr. Lee and Mr. Grayson, concluded that yourself, whose talents and integrity he admitted, were unreasonable upon this occasion in which your Federal politics were so adverse to the opinions of many members. Your friends Page, Corbin, Carrington, and White were zealous, but the last gentleman having in the connection of his ideas something about instructions, acknowledged

[1] Hamilton's Works, i., 462–463.

[2] The Lost Principle, by Barbarossa (John Scott), 172.

that it was doubtful whether you would obey instructions which should direct you to vote against direct taxation. 'Thus, gentlemen, rejoined Mr. Henry, the secret is out, it is doubted whether Mr. Madison will obey his instructions.' The ballots were opened on Saturday, and at least fifty gave you single votes; that is, threw their other votes on persons not nominated. To the mortification and grievous discontent of the advocates for order and truth, the members were for R. H. Lee, ninety-eight, for William Grayson, eighty-six, for James Madison, seventy-seven."[1]

From a letter of Edward Carrington to Mr. Madison, November 9, it appears that "of those cast away Mr. H.[2] got twenty-six, and the remainder were distributed to many others."[3] Mr. Henry would have been one of the Senators, had he not refused to allow his name to be placed in nomination. But his increasing infirmities prevented him from undertaking any duty so far from his home. His defeat of Mr. Madison, the candidate of General Washington, after the concessions made by the Federalists, shows his complete sway over the Assembly. Happily we have in the following letter to Colonel Lee, not only his own account of the matter, but an indication of the intense earnestness of his demand for amendments.

"RICHMOND, Novr 15, 1788.

"DEAR SIR: I postponed answering your favor until I could have the pleasure of congratulating you on your election to the office of senator for Virginia in the new congress, which I now do. The

[1] Conway's Edmund Randolph, 120.
[2] Mr. Henry.
[3] Bancroft's History of the Constitution, ii., 483.

friends of the system are much displeased that Mr. Madison was left out of the choice. They urged his election most warmly, claiming as a sort of right the admission of one Federal member; but in vain— For to no purpose must the efforts of Virginia have been expected to procure amendments, if one of her senators had been found adverse to that scheme. The universal cry is for amendments, & the Federals are obliged to join in it; but whether to amuse, or conceal other views seems dubious. You have been too long used to political measures not to see the grounds of this doubt, and how little dependance can be placed on such occasional conformity, and you know too well the value of the matters in contest to trust their safety to those whose late proceedings, if they do not manifest enmity to public liberty, yet show too little solicitude or zeal for its preservation.

"Your age and mine seems to exempt us from the task of stepping forth again into the busy scenes which now present themselves—I am glad to know that you have health and spirits enough to decline no exertion. I shall not claim it further than it will extend to distant operations. I mean not to take any part in deliberations held out of this state, unless in Carolina, from which I am not very distant and to whose politics I wish to be attentive. If congress do not give us substantial amendments, I will turn my eyes to that country a connection with which may become necessary for me as an individual. I am indeed happy where I now live in the unanimity which prevails on this subject; for in near 20 adjoining countys I think at least $\frac{19}{20}^{\text{ths}}$ are antifederal, and this great extent of country in Virginia lays adjoining to N° Carolina, and with her forms a great mass of opposition not easy to surmount. This opposition it is the wish of my soul so see wise, firm, temperate. It will scarcely pre-

serve the latter epithet longer than congress shall hold out the hope of forwarding amendments. I really dread the consequences following from a conduct manifesting in that body, an aversion to that system. I firmly believe the American union depends on the success of amendments. God grant I may never see the day when it shall be the duty of whiggish Americans to seek for shelter under any other government than that of the United States. The old charges of turbulence and ambition have been plentifully bestowed on me. You have not escaped; but as to us who have so long been accustomed to despise these attempts, they will have little effect further than to excite pity.

"I have no correspondencys at present on the subject of politics. For that Reason I beg you will now and then drop me a line when you may find leisure. The progress of things under the new government in its commencement, will be highly interesting and important to be known. Letters addressed to the care of George Fleming Esq. in this city will reach me.

"After expressing my ardent wishes for your welfare and success in your late appointment, and every other circumstance, I beg leave to tell you of the high esteem and regard with which I am,

"Dear Sir,

"Affectionately yours,

"P. HENRY.

"HONORABLE R. H. LEE, ESQ."

We learn from the correspondence of Washington that both Lee and Grayson had expressed themselves as advocates of the measures necessary to put the government in operation without embarrassment.[1] As they were nominated by Mr. Henry

[1] Writings of Washington, i., 448.

they must be taken as reflecting his views in this regard. It was therefore with unjust suspicion of him that Colonel Edward Carrington wrote to Mr. Madison, November 9 :

"Mr. Henry is putting in agitation the name of Clinton for vice-president. . . . Grayson is warm in such an election ; he is indeed the devoted servant of Henry. You may rely upon it, my dear friend, that Mr. Henry will throw into the government every embarrassment he possibly can."[1]

After the election of Senators the bill for districting the State for members of the House of Representatives was taken up. Mr. Henry was not on the Committee that prepared this bill, but Mr. Madison and his friends charged him with arranging the district in which Mr. Madison resided, so as to put a majority of republican counties in it, with a design of preventing his election to the lower house. The first intelligence Mr. Madison received as to this bill came from his friend Colonel Edward Carrington, who wrote him, November 15 :

"The bill for district elections of representatives passed our House yesterday. The *Antes* have levelled every effort at you. The point of residence in the district is carried by some of the *Feds* having at an early period committed themselves on that side. Your district is composed of the counties of Amherst, Albemarle, Louisa, Orange, Culpeper, Spotsylvania, Goochland, and Fluvanna. We wished to get Fauquier, but the power of the *Antes* was too strong for us." [2]

[1] Bancroft's History of the Constitution, ii., 483.
[2] Rives's Madison, ii., 654.

It will be seen that Colonel Carrington does not charge Mr. Henry with the arrangement of the district, and if he could have done so his correspondence shows that he would not have failed to do it. This letter shows that the friends of Mr. Madison tried to fix a district which would certainly elect him, by including Fauquier. This was a strong Federal county, and would have taken the place of Amherst and Goochland, which were anti-Federal in the Convention.[1]

There seems, therefore, to have been a contest over this district, each side trying to arrange it to suit their purposes, in which the anti-Federals outvoted their opponents.

The charge that Mr. Henry controlled the matter doubtless has no other foundation than the belief that he could control the body at will. This estimate of his influence is constantly presented in the letters of the day. We find a striking example of it in a letter of Washington to Madison, November 17. He says:

"The accounts from Richmond are indeed very unpropitious to federal measures. In one word it is said that the edicts of Mr. H. are enregistered with less opposition in the Virginia Assembly than those of the grand monarch by his parliaments. He has only to say, let this be law, and it is law." [2]

That Mr. Henry's opposition to Mr. Madison had nothing personal in it, is shown by his allowing him to be re-elected to Congress by this Legislature, as one of the delegates till the new government was

[1] Rives's Madison, ii., 654, note.

[2] Bancroft's History of the Constitution, ii., 483.

put in operation. Mr. Madison feared that he would prevent this,[1] and that his defeat would appear to be a condemnation of his course in that body by his State. But Mr. Henry was a generous opponent, and was incapable of petty warfare against any adversary.

The matters touching Federal elections having been disposed of, he turned his attention to the legislation needed to adapt the State to the new order of things. In this he showed his distrust of the Federal system. This is plainly seen by the bill he introduced, which disqualified Federal officers from holding office under the State government.

On November 19, having seen all the legislation accomplished that related to the new government, Mr. Henry obtained leave of absence for a fortnight, and did not sit again during the session.

Tobias Lear, Washington's private secretary, doubtless echoing his sentiments, wrote to the Governor of New Hampshire from Mount Vernon, January 31, 1789, concerning Mr. Henry's course in the body:

"In plain English, he ruled a majority of the Assembly; and his edicts were registered by that body with less opposition than those of the Grand Monarque have met with from his parliaments. . . . And after he had settled everything relative to the government wholly, I suppose, to his satisfaction, he mounted his horse and rode home, leaving the little business of the State to be done by anybody who chose to give themselves the trouble of attending to it."[2]

[1] Madison's Works, i., 440.

[2] Bancroft's History of the Constitution, ii., 488–485.

The departure of Mr. Henry for his home, thus sarcastically described, was caused by anxiety for his sister Anne, whom he so tenderly loved. She had just come in from Kentucky, in feeble health, with the purpose of trying the climate of the West Indies, as a last resort. The following letter to his daughter, Mrs. Aylett, reveals this:

"RICHM^{D}., Nov. 11th, '88.

"MY DEAR BETSEY: I am sorry to hear by Mr. Aylett's letter, that you are sickly; but I am in hopes the cold weather will restore you to good health. I give you joy of your son & hope he will be restored to health also. I really much want to see you, & would go over, but my horses are sent home; & if they were not, I have not a moment to spare. Your Aunt Christian is come in from Kentucky with all her children, & waits to see me, I expect, with great impatience. I think she will stay some time at Col^{o}. Meredith's and Sister Wood's before she goes out, & I must see her directly. We expected to have the pleasure to see you & Mr. Aylett in P. Edward, & hope you will be up there soon as your health permits. Your Sister Fontaine is well, & has another son 6 months old. I have a son also, 4 months old. The dear little Family were all well a few days ago, when your mama wrote me a letter & desired her love to Annie & you—I hope, my dear child, you will be restored to health; & that Providence may dispense its favors to you & yours is the prayer of, my dear Betsey,

"Your affe^{te} Father,

"P. HENRY.

"To MRS. ELIZABETH AYLETT, *King William.*"

Scarcely had Mr. Henry reached his home when a writer, over the signature of "Decius," commenced

a series of scurrilous articles in the *Independent Chronicle*, published at Richmond, aimed at the leaders of the Republican party in Virginia, and principally at him. Other attacks had been made upon Mr. Henry, but this was the most malignant. The writer boasted that he would break down his influence. He said, "I want to crush that ante-Federal champion, the cunning and deceitful Cromwell, who, under the guise of amendment, seeks to destroy the constitution, break up the Confederacy, and reign the tyrant of popularity over his own devoted Virginia." The articles ran from December 2, into the following March. The charges were indignantly denied by a number of writers in the same journal, and such was the reverence felt for Mr. Henry's character and public services, that the slanders were treated as little less than sacrilegious. One of the writers styled him, "The Father of his country." The indignation felt is strikingly depicted in a letter from his warm personal friend, William DuVal, a lawyer of distinction, who wrote March 28, 1789, and gave the initials of a gentleman, "who unfortunately avowed at last Hanover Court that Decius' charges were but too well grounded; the consequence of which observation occasioned somebody to get a complete flogging." Mr. DuVal continues his letter as follows:

"My respect for truth and my knowledge of you, must give offence to an honest mind, to see any amiable character treated with disrespect. Malicious as the world is, Decius has but few votaries. Go on, my friend, as the great champion of the rights of mankind. We soon shall see those obscure characters, like a malignant mist, dispersed by the

splendor of the sun, disappear and be forever forgotten." [1]

In a previous letter he had written, "Decius is generally reprobated." That the condemnation of the slanderous attack was not confined to Mr. Henry's political friends, he had gratifying evidence from different sources. Colonel Innes, his eloquent opponent in the late Convention, wrote him the following noble letter:

"RICHMOND, March 28, 1789.

"DEAR SIR: For what sin, unwhip'd of justice, I am so often visited by the injurious suspicions of my countrymen, I can not divine. In addition to my being the author of the State Soldier, and the publisher of much defamation against you, I now find that the papers of Decius are also imputed to me. But I experience satisfaction in being able with truth to say, that this last imputation, is as unjust as those which have preceded it. While I was informed, that the author of the periodical papers under the signature of Decius, was shortly to be disclosed; I thought a communication of this kind quite unnecessary. But as that publication is still continuing, and I understand the name of the writer is not to be known until it is concluded, to gratify my own feelings, I take this opportunity to declare, that I neither am the author nor do I know who he is, that I am not directly or indirectly concerned in the publication, nor have I ever approved of it. I will only take the liberty to add that I am with sentiments of very high respect and esteem, dear sir,

"Your friend and servant,

"JAS. INNES.

"TO PATRICK HENRY, ESQ."

[1] MS.

Among the published replies also, there was a communication signed "A Federalist," in which the attack upon Mr. Henry's conduct in the Convention was reprobated, and it was declared that in that body, "Mr. Henry did credit to his cause and thereby added to his political fame."

Edmund Randolph, than whom no one had more reason to feel irritation at the course of Mr. Henry in the Convention, wrote a letter to Mr. Madison, March 27, 1789, which, as it was never designed to meet Mr. Henry's eye, is the more valuable as an estimate of this attack. He said:

"There is a general calm in politics. The discontented, themselves, seem willing to wait with temper, until congress shall open their views. . . . Altho' I am convinced that nothing will soften the rancour of some men, I believe that moderate and conciliatory conduct on the part of our Federal rulers will detach from their virulence those who have been opposed from principle. A very injudicious and ill-written publication, which you have seen, under the signature of "Decius," may impede perhaps the salutary effect, by keeping in a state of irritation those minds which are well affected to the object of his bitterness. His facts are of a trivial cast, and his assertions are not always correct; and he thus becomes vulnerable in almost every part. The liberty of the press is indeed a blessing which ought not to be surrendered but with blood, and yet it is not an ill-founded expectation, in those who deserve well of their country, that they should not be assailed by an enemy in disguise, and have their characters deeply wounded before they can prepare for defence. I apply not this to any particular person."[1]

[1] Edmund Randolph, by Conway, 121.

But Mr. Henry had no purpose of making any defence against such an attack. He maintained a dignified silence, conscious that he needed no defence, other than the panoply of rectitude, against the poisoned shafts of the slanderer. Judge Roane describes his conduct on the occasion as follows:

"Shortly after the constitution was adopted, a series of the most abusive and scurrilous pieces came out against him under the designation of Decius. They were supposed to be written by John Nicholas (Americanus), with the assistance of other more important men. They assailed Mr. Henry's conduct in the convention, and slandered his character by various stories hatched up against him. These pieces were especially hateful to all Mr. Henry's friends, and indeed to a great portion of the community. I was at his house in Prince Edward during the thickest of them, and I declare that he seemed to evince no more desire to see the newspapers containing them, than the most indifferent person in the country. He evinced no feeling on the occasion, and far less condescended to parry the effects thereof on the public mind. It was too puny a contest for him, and he reposed upon the consciousness of his own integrity."[1]

His friend, Senator Grayson, in his letter of June 12, 1789,[2] refers to his dignified silence, and commends it in very handsome terms, adding, as the saying of Addison, "Envy and detraction is a tax which every man of merit pays for being eminent and conspicuous." The bitterness of this truth

[1] MS. Letter to Mr. Wirt. [2] Post, iii., 389.

Washington was soon to experience, and to bear with much less equanimity than Mr. Henry.[1]

[1] The authorship of Decius is in doubt. See Ford's Pamphlets on the Constitution, 415–417. Mr. Jefferson, in a note on his copy of a collection of the letters and replies, attributes Decius to Dr. Montgomery, who, Mr. Ford thinks, was James Montgomery, delegate from Washington County in the Virginia Convention. This gentleman, however, voted with the anti-Federalists. The author was doubtless John Nicholas (Americanus), as was supposed at the time, according to Judge Roane. But as there were two persons of that name, one a son of Robert Carter Nicholas, and the other, his cousin, there is still a doubt as to the person. From the character given of the cousin, who lived in Albemarle County, in Randall's Life of Jefferson, it is very probable that he wrote the letters. It is noteworthy that Mr. Jefferson, though making notes on this pamphlet, nowhere seems to disapprove of the scurrilous attack. His copy is in the Congressional Library.

CHAPTER XXXIX.

AMENDMENTS.—1790–91.

Mr. Madison is Elected to Congress.—Mr. Henry as a Member of the Electoral College Votes for Washington.—Mr. Madison Moves in Congress for Amendments.—His Fear of Mr. Henry's Influence.—Changed Position of Mr. Madison in Reference to Necessity of Amendments.—Action of Congress on His Motion.—Mr. Henry the Force Behind Mr. Madison.—Correspondence between Mr. Henry and the Virginia Members and Senators.—Measures of First Congress.—Assembly of 1789.—Dissatisfaction with the Action of Congress as to Amendments.—Aid to Chickasaws.—Request for Open Sessions of the United States Senate.—Ratification by North Carolina and Rhode Island.—Mr. Henry Declines a Seat in the United States Senate.—Hamilton's Financial Schemes.—Rise of Parties.—Action of Virginia Legislature in November, 1790.—Final Adoption of the Amendments Proposed by Congress.—Close of Mr. Henry's Political Life.—His Attitude Toward the Federal Government.—The Eleventh Amendment.

DEFEATED for the Senate, Mr. Madison offered for the House of Representatives. He was opposed by Colonel Monroe. A spirited contest ensued. Finding that the impression prevailed that he was opposed to amendments, even to that securing the freedom of religion, Mr. Madison openly advocated them, and pledged himself to their support.[1] He thus secured his election. A similar course was doubtless pursued by the other Federal candidates. The people, believing that the Federalists could best accomplish this end, and that the Constitution

[1] Madison's Works, i., 446–449.

should have a fair trial under the guidance of its friends, elected a majority of Federalists from the State. The names of the successful candidates were John Page, James Madison, Samuel Griffin, Andrew Moore, Alexander White, Richard B. Lee, John Brown, Theodoric Bland, Isaac Coles, and Josiah Parker. The last three were classed as anti-Federalists, the others as Federalists.

Mr. Henry was elected in his district as a member of the Electoral College, and cast his vote for George Washington for President, and George Clinton for Vice-President. When the votes were afterward counted, it appeared that General Washington had received 69, the entire number cast, and John Adams only 34. The universal confidence in Washington, which had accomplished the adoption of the new plan of government, was thus unmistakably manifested in the call on him to be its first chief executive. Count Moustier, the French Minister, after having witnessed the struggle over it, and the unanimous call of Washington to the office of President, wrote to Count Montmorin from New York, June 6, 1789:

"It is already beyond doubt that in spite of the asserted beauty of the plan which has been adopted, it would have been necessary to renounce its introduction if the same man who presided over its formation had not been placed at the head of the enterprise. The opinion of General Washington was of such weight, that it alone contributed more than any other measure to cause the present constitution to be adopted. The extreme confidence in his patriotism, his integrity, and his intelligence, forms to-day its principal support. It has become

popular much more out of respect for the chief of the republic than by any merit of its own. All is hushed in the presence of the trust of the people in the savior of the country." [1]

It was this trust which defeated the proposal of New York and Virginia for a second convention, of which he was known to disapprove. The Federalists were not willing to run any risk in the matter, however, and therefore on May 4, four days after Washington's inauguration, and the day before the Virginia resolutions were presented, Mr. Madison gave notice in the House that on the fourth Monday of the month he would move amendments to be proposed by Congress. His motion was made June 8. In making it he said, by way of apology, "I consider myself bound in honor and in duty to do what I have done on the subject." His speech on the occasion betrays the uneasiness he felt from the influence of Mr. Henry in Virginia. He said:

"It appears to me that this House is bound by every motive of prudence, not to let the first session pass over without proposing to the State Legislatures some things to be incorporated into the constitution that will render it as acceptable to the whole people of the United States, as it has been found acceptable to a majority of them. I wish, among other reasons why something should be done, that those who have been friendly to the adoption of this constitution may have the opportunity of proving to those who were opposed to it, that they were as sincerely devoted to liberty and a republican government as those who charged them with

[1] Bancroft's History of the Constitution, ii., 495–496.

wishing the adoption of this constitution in order to lay the foundation of an aristocracy or despotism."[1]

The articles proposed by Mr. Madison[2] were but little more than a bill of rights, and the addition of the substance of the first, second, seventeenth, and a part of the fourteenth amendments proposed by the Virginia Convention. The modification of the fourteenth Virginia amendment left out all of it except the provision for trying appeals in jury cases according to the provisions of the common law. Mr. Madison proposed none of those amendments of the Virginia Convention which, by restricting the judicial power, and the power of Congress over standing armies, taxation, commerce, treaties, and elections, secured the States from the encroachment of the Federal government. The action of Mr. Madison was as predicted by Mr. Henry, who knew his hostility to the omitted amendments. It seems to have been backed up by a strong party, which doubtless he was active in forming. Colonel Grayson wrote Mr. Henry, June 12, 1789:

"Some gentlemen here, from motives of policy, have it in contemplation to effect amendments which shall affect personal liberty alone, leaving the great points of the judiciary, direct taxation, etc., to stand as they are; their object is in my opinion unquestionably to break the spirit of the party by divisions; after this I presume many of the most sanguine expect to go on coolly in sapping the independence of the State legislatures."

[1] Debates in Congress (Gales), i., 448–449. [2] Idem, 451–453.

Mr. Henry was sorely troubled when he learned what had been done by Mr. Madison. He wrote Colonel Lee, August 28:

"As to my opinion of the amendments, I think they will tend to injure rather than serve the cause of liberty, provided they go no further than is proposed as I learn. For what good end can be answered by rights, the tenure of which must be during pleasure. For right, without having power and might, is but a shadow. Now it seems that it is not proposed to add this force to the right by any amendment. It can therefore answer no purpose but to lull suspicion to talk on the subject." [1]

Mr. Henry plainly saw that the effect of the proposed amendments would be to silence the demand for others he deemed of vital importance. He had in the Convention expressed his opinion of the importance of those now proposed.

In advocating his bill Mr. Madison on the floor of Congress, presented a striking contrast to Mr. Madison on the floor of the Virginia Convention. He now urged some of the same arguments which Mr. Henry had presented, and he had combated in the last-named body. After much opposition and delay he at last, on August 24, carried through the House a series of seventeen amendments which were sent to the Senate. There the Virginia Senators moved the addition of the omitted Virginia amendments, but without success. They had as well have tried "to carry Mount Atlas on their shoulders," as Colonel Grayson wrote Mr. Henry.

[1] Post, vol. iii., 397.

Instead of strengthening them, they had the mortification of seeing them weakened by the Senate and reduced to twelve. That body was more strongly Federal than the House. It now became plain that the advocates of the amendments proposed by the Virginia Convention, who had voted for previous ratification, had made a fatal mistake, as Mr. Henry had warned them they were doing.

Of the twelve amendments proposed by Congress, ten were finally adopted by the requisite vote of three-fourths of the States, and, as has been seen, have proved of great value in the administration of the government.

The biographer of Mr. Madison, admitting the great importance of the amendments adopted, in strengthening the Constitution in the confidence and affections of the people, and in furnishing most important safeguards against the abuse or usurpation of power, claims, and doubtless properly, that "nothing short of the high standing of Mr. Madison in the public councils, and the deference accorded to his opinions and his virtues, could have secured a favorable reception for propositions so counter to the prepossessions of the body to which they were addressed."[1] But the accomplished author has not noted the *vis a tergo* which impelled Mr. Madison to the accomplishment of the task. Until he met Mr. Henry in debate on the floor of the Virginia Convention, Mr. Madison had manifested no disposition to amend the Constitution. Pressed by the arguments of Mr. Henry, he agreed to advocate amendments in order to secure ratification. Afterward, when defeated for the Senate by Mr. Henry,

[1] Rives's Madison, iii., 40–44.

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[1] Rives's Madison, iii., 40–44.

and having to carry a district demanding amendments, he was forced to pledge himself to his constituents to advocate them, in order to secure his election. It was thus by the influence of Mr. Henry, the great leader of the anti-Federalists, that he was driven to the course he pursued, and in which he dared not halt. While he disobeyed the command of the Virginia Convention, in not offering all the amendments that body proposed, yet what he accomplished may well be set down as so much to the credit of Mr. Henry and the earnest men who acted with him.[1] And it is doubtless true, as Mr. Madison said, that he accomplished all that it was possible for him to do, even if he had approved of, and urged, all the amendments proposed by Virginia.[2]

Mr. Henry was in constant correspondence with the Virginia Senators and anti-Federal members. Unfortunately, but a few of the letters have been preserved, but these are of great interest. They show that he was frequently consulted as to the proper course to be pursued in the important measures which were discussed in the first Federal Congress.

The letter of Colonel Grayson of June 12, 1789,[3] gave an account of the contest in Congress over the titles which should be given to the new officers. This made a most unfavorable impression upon the people, and though the effort to confer high-sounding titles was defeated, it caused both John Adams and Richard Henry Lee to be greatly censured. Of this feeling in Virginia Washing-

[1] See this fact admirably brought out in Tyler's Patrick Henry, 316.
[2] Rives's Madison, iii., 44.
[3] Post, iii., 389.

ton was informed by his friend, David Stuart,[1] who added:

"The opponents to the government affect to smile at it (the proposal for titles), and consider it as a verification of their prophesies about the tendency of the government. Mr. Henry's description of it, that 'it squinted towards monarchy,' is in every mouth, and has established him in the general opinion as a true prophet."

In Colonel Grayson's letter was enclosed a copy of the impost bill, of which he wrote:

"You will see there is a great disposition here for the advancement of commerce and manufactures in preference to agriculture. . . . You will easily perceive the ascendency of the Eastern interest by looking at the molasses, which is reduced to two and one-half cents, while salt continues at six, and with an allowance of a drawback to their fish, etc. . . . The raising of money by impost has been thought very favorably of throughout America. . . . . Satisfied I am it will be particularly injurious to the southern States, who do not and cannot manufacture, and must, therefore, pay duties on everything they consume. The cry here is, 'raise everything this way;' and to be sure this is good policy with the States east of Maryland."[2]

It thus came to pass, that from the beginning of the new government, the interests of the Northern States were protected at the expense of the Southern States, as Mr. Henry had predicted would be the case.

[1] Letter, July 14, 1789; Correspondence of the Revolution, iv., 265.

[2] See also Colonel Grayson's letter of September 29, 1789, post, iii., 405.

In his letter to Colonel Lee, August 28, 1789, Mr. Henry expressed himself opposed to the uncontrolled power of removal from office, accorded to the President by Congress. He declared it made him a despot. How grossly this power has been abused in the history of the Government, in which "To the victor belongs the spoils," has become the party battle-cry, need not be related. During the term of one President[1] it has been restricted by Congress, and also later, in the experiment of Civil Service reform, enacted to prevent, if possible, the evils arising from the customary use of this power.

It is sad to note the struggle for office which commenced with the inauguration of the Government. Colonel Grayson wrote:

"There are an infinity of people here waiting for offices. Many of them have gone home for want of money, this accounts for the great number of patriots who were so very sanguine for the new government. It is certain a hundredth part cannot be gratified with places; of course, ninety-nine will be dissatisfied."

Mr. Henry was promptly in his seat when the Assembly met, October 19, 1789, and was given his usual place upon the standing committees. He found a much stronger Federal party in the body, and led by abler men, than were in the previous Legislature. Besides Edmund Randolph, there were General Henry Lee and John Marshall to oppose any measures which looked to weakening Federal power. The usual message of the Governor transmitted re-

[1] Andrew Johnson.

sponses from only three States, to the invitation of Virginia to call another convention. New York united in the call, but Massachusetts and Pennsylvania respectfully declined. Mr. Henry, satisfied that all hope of another convention was at an end, still desired that every opportunity should be taken advantage of to obtain from Congress the proposal of further amendments, which he hoped North Carolina and Rhode Island would demand as a condition of ratification.[1] He was, therefore, for postponing the action of Virginia on those proposed till the next session, urging that the Legislature was elected before their promulgation[2] and was, therefore, not the body to pass on them. He, however, must have felt but little interest in his motion, or else was called away by pressing business, as Edmund Randolph wrote to Washington, November 22:

"Mr. Henry has quitted rather in discontent, that the present Assembly is not so pleasant as the last. He moved, before his departure, to postpone the considerations of the amendments until the next session. His motion now lies on the table, to be discussed to-morrow."[3]

When the matter came up, the amendments were discussed, and the last two were opposed by Randolph.[4] The whole twelve were agreed to on November 30, and on December 5, a resolution was adopted urging Congress to the reconsideration of

[1] See this suggested by Grayson in his letter of September 29, 1789.
[2] Madison to Washington, November 20, 1789, Correspondence of the Revolution, iv., 293. [3] Edmund Randolph, by Conway, 131.
[4] Correspondence of the Revolution, iv., 295–299.

those recommended by Virginia, which had been omitted. The Senate, however, insisted on some changes which defeated the action of the House.[1]

Before Mr. Henry left the House he carried through a resolution granting a supply of ammunition to the Chickasaw Indians, the well-tried friends of the State, who were threatened by the hostile Creeks. The Chickasaw chiefs who attended the Legislature asking for this supply, were prevented from proceeding to Congress because of the urgency of their need. Mr. Henry moved an address to the President explaining the action of the Legislature, and offering the aid of the State in defending the western border from the hostile tribes.[2] This address is remarkable because of the reason assigned for informing the President of the relief granted to the Chickasaws. It said, "It is incumbent on us to make this communication, lest in case of silence it might be interpreted into a design of passing the limits of State authority." Thus particular was the Legislature not to appear to interfere with the right and duty of Congress to conduct all matters relating to the Indians.

The House of Delegates showed their dislike of secret proceedings, by instructing their Senators to move open sessions in the Senate, which had commenced with all proceedings secret. The motion was lost, and this, with other acts of Congress, was reported as causing great dissatisfaction in Virginia.[3] The Legislature again authorized the calling of a convention in Kentucky, to take the proper steps

[1] Madison's Works, i., 500. [2] Journal of House, 7 and 24.

[3] Letter of Colonel D. Stuart to Washington, June 2, 1789, Writings of Washington, x., 96.

to become a separate State in the Union. This was done, and an end was thus put to the machinations of the British and Spaniards to separate it from the United States. An offer was also made to the United States of ten miles square for a Federal capital.

The State of North Carolina, in view of the amendments offered, ratified the Constitution, November 21, 1789, and Mr. Henry was at last forced to abandon all hope of further amendments from the influence of that State. On January 29, 1790, he wrote to Richard Henry Lee, touching those proposed by Virginia: "In the business of the lately proposed amendments I see no ground to hope for good, but the contrary."

His despondency was increased by the act of ratification by Rhode Island on May 29, 1790. This State, abandoning her violent opposition, contented herself with an elaborate statement of rights which she considered reserved, and a long list of amendments which she proposed to the consideration of Congress.[1]

In March, 1790, Colonel Grayson died, and Mr. Henry was approached to know whether he would accept the Senatorship at the hands of the Governor. The result is thus related in a letter of Colonel David Stuart to Washington:

"A member of the council, who wrote privately to Mr. Henry to know if he would accept of the offer of senator in Congress, if appointed, showed me his answer, in which he declines it, and says he is too old to fall into those awkward imitations,

[1] Elliott's Debates, i., 334–337.

which are now become fashionable. From this expression I suspect the old patriot has heard some extraordinary representations of the etiquette established at your levees. Those of his party no doubt think they promote themselves in his good opinion by such high coloring. It may not be amiss, therefore, to inform you that B—— is among the dissatisfied on this score. I am informed by good authority, that he represented that there was more pomp used there than at St. James's, where he had been, and that your bows were more distant and stiff. This happened at the Governor's table in Richmond. By such accounts, I have no doubt the party think to keep alive the opposition and aversion to the government." [1]

This allusion to the ceremonies of his receptions called forth a long reply from Washington, who was evidently wounded by it.[2]

It is greatly to the honor of Mr. Henry that this, doubtless playful, allusion to the courtly ceremonies inaugurated by the first President, is the only criticism of Washington which fell from him, so far as is known, during the period of their strained relations. Mr. Henry was aware of Washington's feelings toward him, though probably not of their extent as exhibited in the subsequent publication of Washington's correspondence. But he was never betrayed into a word of disrespect toward the man he had learned to revere. It is sad to think that the warm friendship which subsisted between the two was ever chilled, and to find, as we do, Mr. Henry, in 1790, writing to a friend wishing an appointment, "I cannot with propriety write to the

[1] Writings of Washington, x., 96.

[2] Letter of Washington to D. Stuart, June 15, 1790, Writings of Washington, x., 94.

President on your affair." [1] Yet these two patriots never lost respect for each other, and gladly renewed their friendship in after-years, when new dangers threatened their country.

The measures of the first Congress were watched with the greatest interest by the country, as indicating the character which the new government would assume. Soon the financial policy of Alexander Hamilton, the Secretary of the Treasury, was unfolded, and caused intense excitement. The feature which was most objectionable was the proposed assumption by the United States of the debts of the several States. These were to be estimated in gross, as they were then held by their creditors; regardless of their standing at the end of the war, of the claims of the United States for advances made, and quotas of requisitions not paid up. The State of Virginia had by grievous taxation greatly reduced her debt, and her advances to the general government, and expenses incurred for the general welfare, were still unsettled. She would, therefore, be the greatest sufferer by the proposed assumption. Massachusetts, Connecticut, and South Carolina had left unpaid their creditors, and owed more than half of all the debts due by the States. This grossly unjust proposal was ostensibly based upon the proposition, that all the debts were contracted in sustaining the revolutionary struggle; but Colonel Hamilton has left on record, that his object was, "an accession of strength to the national government, and an assurance of order and vigor in the national finances." [2]

[1] To Colonel Martin, January 25, 1790. Post, iii., 409.

[2] Letter to Edward Carrington, May 26, 1792, History of American Republic, iv., 523.

Indeed his arguments logically led to the conclusion, that "a national debt is a national blessing." The struggle in Congress over this proposal was long and bitter. Mr. Jefferson afterward wrote: "It produced the most bitter and angry contests ever known in Congress, before or since the union of the States." Threats of disunion were more than once indulged in by representatives of the States which were to be most benefited, if the opposition was not withdrawn. After having been defeated in the House, a regular bargain was entered into, between Jefferson and Hamilton, whereby the permanent location of the seat of government on the Potomac was given by Hamilton and his party as the price of votes enough to carry the measure.[1] This measure, which finally passed Congress July 24, 1790, is regarded as having given rise to the political parties subsequently known as "Federalist" and "Republican." Mr. Madison, who led the opposition, was thenceforth classed with the Republican party.[2] The distinction between these parties, at their origin, was their different purposes regarding Federal power. Colonel Hamilton, the great leader of the Federalists, declared his idea of a good administration to be, "to acquire for the Federal government more consistency than the Constitution seems to promise for so great a country. It may thus triumph altogether over the State governments, and reduce them to an entire subordination, dividing the larger States into smaller districts."[3] While his followers were doubtless unaware of his

[1] Mr. Jefferson relates the bargain in his Ana.

[2] See an account of his part in the struggle, in Life by Rives, chap. xl.

[3] Hamilton's Works, ii., 421.

design, yet they united with him in strengthening the Federal arm by the exercise of implied powers, where express powers failed to answer their purpose. The Republicans, on the contrary, under the subsequent lead of Jefferson and Madison, were for restricting the Federal Government, as far as possible, to the exercise of the powers expressly given in the Constitution, and for strengthening the State governments.

The condemnation of the assumption act was well-nigh unanimous in Virginia.[1] This feeling found very distinct utterance upon the meeting of the Legislature in October, 1790. On the 25th, Mr. Henry appeared in his seat, and on November 2, the Committee of the Whole reported the following resolution, which was adopted by a vote of 75 to 52:

"That so much of the act of Congress entitled, 'An act making provision for the debt of the United States' as assumes the payment of the State debts, is repugnant to the Constitution of the United States, as it goes to the exercise of a power not expressly granted to the General government."[2]

Mr. Henry voted for this resolution, which was antagonized by those who proposed to place the vote of censure upon the ground of injustice to the States which had redeemed a large portion of their debts, among which Virginia was prominent. On November 8, a resolution covering this ground was adopted without a division,[3] and Mr. Henry was placed upon the committee to prepare a memorial to Congress on the subject. The paper reported and

[1] Writings of Washington, x., 94. [2] Journal, 35, 36.
[3] Idem, 44.

adopted by the Legislature is a vigorous protest against the objectionable features of the funding and assumption act.[1] The following extract will show how the Legislature stood on the question now beginning to divide national parties:

"During the whole discussion of the Federal Constitution by the convention of Virginia, your memorialists were taught to believe 'that every power not granted was retained.' Under this impression, and upon this positive condition, declared in the instrument of ratification, the said government was adopted by the people of this commonwealth; but your memorialists can find no clause in the Constitution, authorizing Congress to assume the debts of the States. As the guardians then of the rights and interests of their constituents, as sentinels placed by them over the ministers of the Federal government, to shield it from their encroachments, or at least to sound the alarm when it is threatened with invasion, they can never reconcile it to their consciences, silently to acquiesce in a measure which violates that hallowed maxim; a maxim on the truth and sacredness of which the Federal government depended for its adoption in this commonwealth."

This remonstrance, the first of any Legislature against an act of Congress, was the work of the advocates, as well as of the opponents, of the Constitution. Upon the committee reporting it was Colonel Henry Lee, one of the most ardent friends of the Constitution in the Convention, and now one of the most dissatisfied with the proceedings of Congress under it. He even went so far as to write to

[1] Hening, xiii., 237.

Madison: "To disunite is dreadful to my mind; but dreadful as it is, I consider it a lesser evil than union on the present conditions." [1] Colonel Hamilton denounced the remonstrance as "the first symptom of a spirit which must either be killed, or it will kill the Constitution;" yet he had urged the adoption of the Constitution on the ground, "that the State Legislatures would act as sentinels in sounding the alarm if anything improper should occur in the conduct of the national rulers, and prove the proper and sufficient security against invasions of public liberty by the national authority." [2]

The Legislature found that the requisite number of States had not as yet adopted the proposed amendments, and that there was some ground of hope that Congress might be forced to add to them by the delegations from the States lately added to the government, and by the popular feeling aroused by the assumption act. The body therefore determined to delay action on the subject. John Marshall, a member during the sessions of 1789 and 1790, has given the reasons for the delay as follows:

"Although the necessity of these amendments had been urged by the enemies of the constitution, and denied by its friends, they encountered scarcely any other opposition in the state legislatures, than was given by the leaders of the anti-Federal party. Admitting the articles to be good in themselves, and to be required by the occasion, it was contended that they were not sufficient for the security of liberty; and the apprehension was avowed that

[1] Rives's Madison, ii., 144.

[2] Idem, iii., 151-152; Federalist, Nos. 26 and 28.

their adoption would quiet the fears of the people, and check the pursuit of those radical alterations which would afford a safe and adequate protection to their rights." [1]

As this was the view presented in his correspondence by Mr. Henry, it can hardly be doubted that by urging it on the floor of the Legislature he caused the delay in the action of that body. At the subsequent session no further delay was deemed proper, as a second election had not changed the sentiment of Congress; and the action of Virginia completed the vote required by the Constitution to engraft upon it the first ten amendments. No returns on the subject were ever sent in by Massachusetts, Connecticut, Georgia, or Kentucky.[2]

At this session the subject of the sale of the glebe lands held by the Episcopal Church was brought up by a number of Baptist petitions. The proposal to sell them as the property of the State was defeated by a vote of 89 to 52, Mr. Henry voting with the majority.[3]

The resolution of the House in favor of open sessions of the United States Senate, adopted at the previous session, not having had the desired effect, it was again introduced, and now received the approval of both branches. It was finally successful in opening the doors of that branch of Congress.

Mr. Henry's name does not appear on the Journal after November 11, and he doubtless left the body on the next day, as his absence appears from a recorded vote of that date. After he had left his seat

[1] Marshall's Life of Washington, v., 209.
[2] Elliott's Debates, i., 310. [3] Journal, 73, 74.

the county of Henry was divided, and the new county formed was named "Patrick." The Legislature, by thus naming two counties after him, paid him a graceful, and it is believed, an unprecedented compliment.

He declined a re-election the next spring, and never sat in another deliberative body.

Thus closed a public career of a quarter of a century, which is in every respect most remarkable. With his first legislative breath, Mr. Henry kindled the flame of the American Revolution, the most important event in modern history. By his absolute control over his own State, the acknowledged leader of the Colonies, he directed the course of the great movement which resulted in union, independence, and well-regulated republican government. And though he took no part in framing the Constitution, under which the National Government has continued now for more than a century, and which has proved itself as suited to a continent as to the original thirteen States, yet it was to his foresight and persistency that we are mainly indebted for the important safeguards for our liberties, which were engrafted on the instrument soon after its adoption.

His views upon political measures at the date of his retirement will be seen from the following letter, addressed to James Monroe, who had been elected as the successor of Colonel Grayson in the United States Senate:

"PRINCE EDWARD, January 24, 1791.

"DEAR SIR: This will be handed you by my neighbour, Tarlton Woodson, who is trying to get some Claims for his Services in the Army allowed

at your Metropolis. I should introduce him to you, but as you know him it would be needless.

"I thank you for yours of the 22ᵈ Decʳ, which I got aWeek ago. And altho' The Form of Governᵗ into which my Countrymen determined to place themselves, had my Enmity, yet as we are one & all imbarked, it is natural to care for the crazy Machine, at least so long as we are out of Sight of a Port to refit. I have therefore my Anxietys to hear & to know what is doing, & to what point the State pilots are steering, & to keep up the Metaphor, whether there is no Appearance of Storms in our Horizon? For accounts here say, there is to be a sad combustion in Europe. But I live so much secluded that my Intelligence is from Sources not to be rely'd on, even as The Reports of the Day.

"As to the Secretary's Report[1] with which you favored me, it seems to be a consistent part of a system which I ever dreaded. Subserviency of Southern to N——n Interests are written in Capitals on its very Front; whilst Government Influence, deeply planted & widely scatter'd by preceding Measures, is to receive a formidable Addition by this plan. But I must suppress my Feelings. They prompt me to speak of the Detail of the Business, of which I am sure you are well informed. I console myself with hoping that the Advocates of Oppression may find the Time when the Measures of Iniquity shall give place to just & enlightened Policy. . . . I conjecture that Indian Affairs are becoming serious—so as to force into Notice, certain Infractions of Neutrality as well as of Treaty, which have been studiously kept out of Sight, & occasionally plaistered over with abundance of Federal Address, when vulgar Observation blundered out her plebeian Feelings & called them Infractions. What, my dear Sir! can it be possible that these Indians are to be

[1] One of Hamilton's financial proposals.

supply'd whilst at open War with us, with the Articles which all Nations call Contraband & this from places which are our own property![1] while the utmost care is taken to give full scope to claims on our Citizens, to question which has ever excited an Indignation hard to account for. But now seems the Time when something on the Subject must come out. The late Commander[2] to the Westward is as generally execrated as I have ever known any person, whether justly I can't say. However appearances are against him.

"I wish I could tell you the News of the Country as to the progress of the Assumption, but I have not heard what course our Creditors will take. It would indeed give me pleasure to return you something entertaining in Exchange for the high gratification I shall derive from corresponding with you; but that is not likely to happen, & all I can promise you is, that I will be sparing of Complaints ag^{t}. the Government, & find Fault as little as my fixed Habits of thinking will permit. I perceive that unless I keep some guard over myself, all I should write or say would be to criminate the late & present proceedings so far as I have knowledge of them. The little Stock of good Humour which I have towards them, is increased by reflecting that some Allowances ought to be made, & some Hopes indulged of future amendment. Whether these Hopes are well grounded, you can better judge.

"Do give me the news when your Leisure permits, with your opinions on such matters as may be the Subject of Letters, and in Return I will try to find out something, & spin it out into the Size of a Letter & send it to you with a sincere Wish my Situation would furnish more valuable Matter to communicate. And when you are assured of the

[1] This refers to British aid to the Indians from forts which should have been delivered up under the treaty. [2] General Harmar.

Sincerity of that Wish I know your Goodness will absolve me.

"With unfeigned Regard I ever am, my Dear Sir, "Your Friend & Servant,

"P. HENRY.

"The HON'BLE JAMES MONROE, ESQ., Philadelphia."

The "crazy machine" to which Mr. Henry referred, was destined to be further refitted by the addition of the eleventh amendment during his life. In August, 1792, a bill was filed in the Supreme Court against the State of Georgia, by one Chisholm, a citizen of another State. During the same month the Indiana company filed a bill in the same court against the State of Virginia, thus verifying the prediction of George Mason and Mr. Henry in the Virginia Convention. On February 18, 1793, the court determined, in the case against Georgia, that it had jurisdiction of the suit. General Henry Lee, then Governor of Virginia, was in Philadelphia at the time, and at once applied to the Senators from his State to introduce an amendment to the Constitution taking away this jurisdiction. He also wrote to the Governors of the other States urging instructions to their members to the same effect.[1]

A writ against the State of Massachusetts, issued directly afterward by one William Vassall, caused John Hancock, the Governor, to call a special session of its General Court for September 18.[2] Under instructions from this body and from the Legislature of Virginia,[3] which met soon afterward, an

[1] Calendar of Virginia State Papers, vi., 301, 453.
[2] Idem, 453–454. [3] Idem, 659–660.

amendment divesting the Supreme Court of jurisdiction in such cases was proposed in Congress. It secured the constitutional vote in 1794, and was finally adopted by the requisite number of States in 1798. It had the effect not only of preventing such suits for the future, but of discontinuing those on the docket; among which was that of the Indiana company against Virginia.

Mr. Henry's great influence in his State continued, even after his retirement. This is shown by Mr. Jefferson's correspondence. Wishing to amend the State Constitution, he wrote to his friend Archibald Stuart, in the summer of 1792, to sound Mr. Henry on the subject, "as he feared if a convention was called in defiance of his views, he would either fix the thing as at present, or change it for the worse."[1] Mr. Jefferson wrote again, September 9, 1792:

"I wrote you a long letter from Philadelphia early in the summer, which would not be worth recurring to, but that I therein asked the favor of you to sound Mr. Henry on the subject you had written me on, to wit: the amendment of our Constitution, and to find whether he would not approve of the specific amendments therein mentioned, in which case the business would be easy. If you have had any conversation with him on the subject, I will thank you for the result."[2]

It was doubtless Mr. Henry's disapproval of the change that prevented the effort to effect it, and preserved the Constitution of 1776 during his lifetime.

[1] Randall's Jefferson, ii., 25.

[2] MS. in possession of Hon. A. H. H. Stuart, the son of Archibald Stuart.

CHAPTER XL.

RETURN TO THE BAR.—1787-94.

Regains His Position at the Bar.—Brilliant Career as an Advocate.—Contest with Edmund Randolph in Carter *vs.* Carter.—The British Debt Cause.—Description of Mr. Henry's Speech, by John Randolph of Roanoke, by Judge Iredell.—Notices of Mr. Henry in Diary of Richard N. Venable.—Family Cares.—Defence of Holland as Related by Judge Roane.—The Turkey Case.—The John Hook Case.—General Andrew Jackson's Tribute.—Mr. Henry's Appearance in a Murder Case, Described by Rev. Conrad Speece.—His Advice to Rev. John Holt Rice.—Distributes Soame Jennings's Book on Christianity.—Removes to Campbell County.—Defends Richard Randolph, Charged with Infanticide.—Dr. Archibald Alexander's Account of Mr. Henry as an Advocate.—Retainer Offered Him by Governor Brooke in the Manor of Leeds Case.—Death of George Mason and Richard Henry Lee.

THE retirement of Mr. Henry from public life, which he had long desired, was rendered necessary by the exhausting demands of his profession upon his strength. Upon the announcement that he would resume the practice of law, clients sought him with eagerness, gladly offering him large fees to argue their causes; for he required them to employ associate counsel to prepare their business for trial. He practised regularly in the district courts held at Prince Edward Court House and New London, but he was also employed in important causes in distant parts of the State. His wonderful powers as an advocate made him especially great in *nisi prius* practice, but he was also retained in important

chancery causes, and some of his greatest triumphs were in arguments addressed to judges on questions of law. Having discontinued his profession for over thirteen years, it was wonderful how rapidly he was able to recall it, and to enter at once upon one of the most brilliant careers as an advocate ever known to the profession. Judge Roane, before whom he appeared, says of him:

"When I saw him, he must necessarily have been very rusty, yet I considered him a good lawyer. He was acquainted with the rules and canons of property. He would not, indeed, undergo the drudgery necessary for complicated business, yet I am told that in the British Debt case, he astonished the public not less by the matter than manner of his speech. It was as a criminal lawyer that his eloquence had the fairest scope, and in that character I have seen him. He was perfect master of the passions of his auditory, whether in the tragic or the comic line. The tones of his voice, to say nothing of his matter and gesture, were insinuated into the feelings of his hearers, in a manner that baffled all description. It seemed to operate by mere sympathy, and by his tones alone, it seemed to me, that he could make you cry or laugh at pleasure; yet his gesture came powerfully in aid, and if necessary would approach almost to the ridiculous."[1]

From accounts left by his contemporaries, we are enabled to describe his appearance in a few of his causes, so as to give some idea of him as a lawyer. In a suit between Charles and Robert Carter, of Loudon County, involving a tract of twelve thousand acres of land and rent for many years, he was writ-

[1] MS. Letter to Mr. Wirt.

ten to by Robert Carter to appear for his defence, Edmund Randolph having been retained for the plaintiff. The distance from Prince Edward to Leesburg, Loudon Court House, was so great, and his health so precarious, that he at first declined in the following letter, giving some suggestions as to the conduct of the defence.

"PRINCE EDWARD COUNTY, July 24th, 1789.

"SIR: Being fully persuaded that your Intentions in the Contest now on Hand respecting the Goose Creek Estate are upright, I should have received pleasure from my being able to give you assistance therein. But from several circumstances I am obliged to decline it at present. The Importance of the Cause, added to the Voluminous Nature of the papers & proceedings in it, would call for long & close study to comprehend them fully.

"The Uncertainty whether Loudoun Court happens on the 2d or 4th Monday is also a considerable Embarrassment, for it is supposed the Almanacs are wrong as to that. If on the 4th Monday it would fatigue me much to get home to the district Court here, which sits on the 1st of Sepr.

"And when I put together every consideration I find that the Money I should charge you would amount to so large a Sum, as to give you Ground perhaps to think me mercenary, or even rapacious.

"It seems to me, on a slight View of the papers that you must encounter great Danger of losing the Suit if a general Verdict is brought in. I think therefore your Counsel should by all Means insist upon the Court to direct the Jury to find specially, exhibiting to the Court the principal Facts arising from the papers, in order to shew that there are Matters of Law in the Case, & if after that the Court do refuse to direct a special Verdict, I ad-

vise a Record to be made of the Motion & of the refusal to grant it. This seems to be a Safe proceeding, in as much as by a special Verdict, or by reserving special Matter in the proceedings, your Cause may be brot to receive the Decision of able Judges.

"Wishing you Health & Happiness,
"I am Sir,
"Your obedient Servant,
"P. HENRY.

"R. CARTER ESQr, *Nomony*."

Mr. Carter insisted on his undertaking his cause, however, and he yielded. The trial came on in August, 1789, and as the Judge ruled against Mr. Henry upon the most important points of law raised, and the jury would have been bound by the instructions of the Court, upon the suggestion of his client he compromised the case, saving him one-half of the land and nearly all of the rent. We have some account of the trial from a letter of Edmund Randolph to a friend, written on his way homeward. The following is an extract:

"FREDERICKSBURG, August 18, 1789.

"MY DEAR FRIEND: The day before yesterday I returned thither from Leesburg, where I was confronted with Mr. Henry, and for three days we lay alongside of each other; with our best cannon in action. It was a diverting scene, taken in the whole. My client, Chas Carter, must have been defeated if a single point of four had gone against him; and to obtain one everything was tried in the way of assertion, declamation, and solecism. In three points the court were unanimous against Mr. H.; on the fourth he had a bare majority. Thus being mortified with defeats, and willing to disguise

them under the name of a compromise, he proposed that his client Robt Carter should surrender 6,000 acres of land, and £450. To this I agreed, knowing that two of the four points were in strictness by no means in our favor." [1]

The compromise was not because of any mortification of Mr. Henry, as the following letter shows; a letter which indicates that Mr. Henry's clients were not altogether different from some others, in being more ready to promise fees before trial, than to pay them afterward. The letter is valuable in showing his method of dealing with a client who refused to pay his charge.

"PRINCE EDWARD, March 31st, 1790.

"SIR: Mr. Dabney, a Gentleman who does Business for M. M. Barret, is now with me from Richmond, & by him I have the Mortification to find my Draft on you in his favor protested. By your letter to him I observe the statement which you give of this affair. It is misrepresented, or rather not fully represented, and as I doubt not by mistake in you. For when you state what was given up by you, what you saved is not mentioned. The Question was, should Col. Chas. Carter recover 12,000 Acres of Land with many years profits, or not. In other words, should this Land & this money be adjudged to you or your opponent. You were not Sued for the Land you lost nor the sum of money. You were Sued for double the Quantity. And if one Acre of the Tract had been adjudged to the Demandant by a Court, the whole Tract must by the same reason have been lost to you. As to the 450£ you agreed to pay, remember Sir, the Sum would have been enormous had you been called to Judgem^{t}.

[1] Conway's Edmund Randolph, 126.

for 50 years profits of what the Lands would be adjudged reasonably to have been worth per Ann. by a Jury. I was perhaps too vain when I supposed I had a Share in bringing you off a contest that had long embittered your Time, & might have continued to do so in the Evening of your Life. Nor could I suppose proportioning my Demand to the property saved to you, would be thought unjust. If I had lost the Cause, 100 guineas was my Fee, you at the same time loosing all the Land & profits. If you obtained the Suit and saved the Estate, 400 guineas. Now the Fact is you save half the Land & more than $\frac{9}{10}$ of what your Antagonist expected as to the profits due him from you. Surely then when you engaged to pay 400 guineas if you have success it is strictly just to proportion My Emolument to your success. More especially when the Fact is after disputing & arguing the Cause so many Days, you yourself set me on the agreement which I concluded by your Direction, when it was seen the Court had determined every point against you, & very little Doubt remained of the Jury's opinion under the Directions of the Court thus clearly in Judgement ag't you.

"The worthy Gentlemen, at least one of them, who assisted me in your Defence, told me you appeared to him desirous to relinquish the whole Estate; and in that Idea I tho^{t}. it my Duty to get y^{r}. Opponent to accept of one-half only, & thus to render you essential Service. This I am confident I can prove as the Judgement of the Gent^{n}. to whom I allude, upon hearing what passed between you and myself in our chamber the last Morning of the Court in Loudoun.

"I am constrained to the painful Task of recapitulating supposed Merits, which I fondly hoped would have been unnecessary, & that both you & myself would be spared the Mortifying Sensations which must arise in recounting Transactions that

ought to be for ever forgotten—& which I trust your Justice will render it unnecessary to call from that Oblivion. Your letter does not put my Demand of 200 Guineas upon any other Footing than 'if we are *successfull.*' Success followed to a certain Degree; And I do assure you, if you had previously told me of the Interpretation you now place upon that Expression, I should not have taken that distressing Fatigue which my Strength but illy enables me to undergo.

"Pray Sir, spare me the Misery of being obliged to Sue you. I am sure you see not with my Eyes, tho' perhaps with as good, otherwise no Dispute would happen—and I really believe your Error is involuntary.

"I will thank you for an answer & am Sir,

"Your most obedient Servant,

"P. HENRY.

"To ROBERT CARTER, ESQ., *of Nomony.*"

A single specimen of Mr. Henry's legal opinions has come to the hands of the author, and is here given.

"Capt. Seymour Scot died intestate since January 1st 1787, leaving lands & slaves as well as personal Estate, & having ten children. One of them intermarry'd with Job Bird, & Capt. Scott gave Mr. Bird on the Marriage two negroes, of which he has remained ever since in quiet possession. The Question is what right has M^{r}. Bird in the Estate of Capt. Scot? I am of opinion, that after M^{rs}. Scot, Widow of Capt. Scot, has her Dower of the Lands & Slaves, as also her distributive share of the personal Estate, that M^{r}. Bird in right of his Wife has a just claim to a full child's part of the Lands & Slaves as also of the personal Estate—but that he must allow for the Value of the two Negroes

above mentioned, as they were worth at the Time they were given, & not for any Increase which they may have had since. "P. HENRY.

"May 30th 1791."

The British debt case, alluded to by Judge Roane in the extract from his letter heretofore given, was Mr. Henry's greatest cause. Its magnitude consisted not alone in the very large sums involved, but chiefly in the great questions discussed. It involved the sovereignty of the State after the Declaration of Independence, the honor of the State in her confiscation acts, the validity of those acts under the law of nations, the effect of the treaty with Great Britain upon them, and the effect upon the treaty of England's infraction of it. No sooner was the Federal court opened in Richmond in 1790 than a large number of suits were instituted by British creditors for the recovery of debts contracted before the revolution by Virginia debtors. These had been in whole or in part paid into the State treasury under the confiscation acts. The defendants made common cause, and employed Alexander Campbell, James Innes, John Marshall, and Patrick Henry. The plaintiffs were represented by Messrs. Ronald, Baker, Starke, and John Wickham, all men of ability. Mr. Wickham was indeed one of the ablest lawyers that ever lived in Virginia.

The question as to the recovery of these debts had been a disturbing one in the politics of the country ever since the treaty of peace, and we have seen that Mr. Henry persistently advocated the side of the debtor. He was deeply interested in the

questions to be discussed, and made a preparation for the argument unusual with him. It is said he shut himself up in his office for days, and allowed no one to approach him except to bring his meals. "He came forth," as Mr. Wirt justly says, "a perfect master of every principle of law, national and municipal, which touched the subject of investigation in the most distant point." It was expected that he would make a great argument. Colonel William DuVal, one of his associate counsel, in sending him drafts of the pleas proposed, and asking for his suggestions, wrote: "Next fall the great question will come on as to their right to recover from our citizens. Your countrymen look up to you on that occasion." Mr. Henry appeared in court and qualified on November 23, 1791, and in a few moments Jones against Walker, the first of the British debt causes on the docket, was called. As the pleadings were to be substantially the same in all of the cases, and were to be decisive of the questions, a stubborn contest over them at once began. Mr. Henry commenced his argument on the 25th, in a densely crowded court-room, and continued it for three days. That it was a magnificent display of legal learning as well as of eloquence, was admitted by all. Even Mr. Jefferson, so unjust in his estimate of Mr. Henry as a lawyer, said of it grudgingly: "I believe he never distinguished himself so much as on the question of British debts in the case of Jones against Walker. He had exerted a degree of industry in that case totally foreign to his character, and not only seemed, but had made himself really, learned on the subject."[1] Fortu-

[1] Letter to Mr. Wirt, Historical Magazine, August, 1867, 93.

nately, Mr. Robertson, the reporter of the Convention of 1788, took down his argument, and Mr. Wirt's account of it from the manuscript will be inserted among Mr. Henry's speeches.

How his services were appreciated by his clients may be learned by a passage in a letter from Daniel L. Hylton, written March 6, 1792, arranging for his fee for a second appearance in the cases. He writes, "Your countrymen look up to you as their rock of salvation." [1]

At the September term, 1791, the discussion was upon the law involved in the pleadings.[2] There was no jury trial. The judges were Johnson and Blair, of the Supreme Court, and Griffin, district judge. At the May term, 1793, the cases were again taken up before Chief Justice Jay, and Judges Iredell, of the Supreme Court, and Griffin, of the District Court. The pleadings were again discussed and somewhat modified. The cause argued at this term was Ware, administrator of Jones, against D. L. Hylton, etc. On May 27, 1793, Judge Iredell wrote to his wife: "We began on the British causes the second day of the court, and are now in the midst of them. The great Patrick Henry is to speak to-day." [3]

John Randolph was present at this trial, and was personally interested in the result. He followed Mr. Henry from Cumberland Court, where he had defended his brother a few days before. Managing to work his way through the crowd, he gained a po-

[1] MS.

[2] It was doubtless at this hearing that the miniature of Mr. Henry was painted from which the Sully portrait was taken. See Appendix IV.

[3] Life of Iredell, ii., 394.

sition near enough to the judges to hear their conversation. He afterward described the scene. He said the Chief Justice told Iredell, who had never heard Mr. Henry, that he was the greatest of orators. Iredell doubted it, and becoming impatient to hear him, they requested him to proceed with his argument before he had intended to speak. Randolph described Mr. Henry as presenting the appearance of an old man, very much wrapped up, and resting his head on the bar. As he arose he began to complain that it was a hardship too great to put the laboring oar in the hands of a decrepit old man, trembling, with one foot in the grave, weak in his best days, and far inferior to the able associates by him. Randolph said although he knew it was all put on, still such was the power of his manner and voice, that he would in a moment forget and find himself enraged with the Court for their "cruelty." He then gave a brilliant outline of Mr. Henry's progress in his argument, and compared him to the practising of a first-rate four-mile race-horse, sometimes displaying his whole power and speed for a few leaps, and then taking up again. At last, Randolph said, he got up to full speed, and took a rapid view of what England had done when she had been successful in arms; and what would have been our fate, had we been unsuccessful. The color began to come and go in the face of the Chief Justice, while Iredell sat with his mouth and eyes stretched open in perfect wonder. Finally Henry arrived at his utmost height and grandeur. He raised his hands in one of his grand and solemn pauses. Randolph said his hands seemed to cover the whole house. There was a tumultuous burst of

applause, and Judge Iredell exclaimed: "Gracious God! He is an orator indeed!" [1]

Judge Iredell has left on record the impression made upon him by the argument. He said in the opinion he read:

"The cause has been spoken to, at the bar, with a degree of ability equal to any occasion. However painfully I may reflect at any time on the inadequacy of my own talents, I shall as long as I live remember with pleasure and respect the arguments which I have heard in this case. They have discovered an ingenuity, a depth of investigation, and a power of reasoning fully equal to anything I have ever witnessed, and some of them have been adorned with a splendor of eloquence surpassing what I ever felt before. Fatigue has given away under its influence and the heart has been warmed, while the understanding has been instructed." [2]

That a large part of this compliment was intended for Mr. Henry cannot be doubted. The decision of the Court upon the pleadings left nothing for the jury to try except the plea of payment. Upon this issue the jury was impanelled at once, and argument was heard, but they could not agree upon a verdict. Nor was one obtained until the May term, 1794, when Mr. Henry was not present. By the pleadings the defendants had been allowed credit for the sums they had paid into the State treasury. From this Ware appealed to the Supreme Court, where the case was heard after Mr. Henry had left the bar. That Court reversed the Circuit Court, and held the

[1] MS. Letter of Hon. James W. Bouldin, a countyman of Randolph, who heard his description of the scene.

[2] Ware vs. Hylton, 3 Dallas, 257.

debtors liable for their original obligations, on the ground that the treaty being the supreme law under the Constitution, annulled the acts of Virginia, although she might have been sovereign when they were passed.[1]

It was the magnificent appearance of Mr. Henry in this great cause, heard at the capital of the State, that *silenced those* who had doubted his acquirements as a lawyer, and caused Washington to offer him afterward the position of Chief Justice of the United States.

A diary of Richard N. Venable for the years 1791 and 1792, has been preserved.[2] Mr. Venable was a member of the Prince Edward bar, and makes frequent mention of Mr. Henry. Some extracts will be given. His admiration and affection for him are indicative of the esteem in which he was held by his brethren of the bar. He writes, April 5, 1791:

"Came to court at Prince Edward, heard much of Patrick Henry's persuasive eloquence." "Saturday, September 3, 1791, attended court at Prince Edward district court, Winston and Tyler judges. Heard an ingenious defence for one Barrant, charged with rape, made by Patrick Henry, in which he displayed great eloquence. Jury hung." "Thursday, May 10, 1792. Go with brother Nathaniel to Colonel Patrick Henry's, spend the balance of the day and take dinner with him. Mr. John Fontaine's widow[3] is here with her family, and has been here ever since the death of her

[1] The case is reported in 3 Dallas, under the style of Ware vs. Hylton.

[2] In the possession of Major Richard N. Venable, of Baltimore. A copy was kindly loaned the author by the Hon. E. C. Venable, of Petersburg, Va.

[3] Mr. Henry's daughter.

husband. Mrs. Roane and her family also. What a weight of worldly concerns rest upon this old man's shoulders. He supports it with strength and fortitude, but nature must sink under the load ere long. His head now blossoms for the grave, his body bends to mingle with its kindred dust, but his fame shall remain and grow like the tall oak of the forest, that spreads its broad head in the wind, and rejoices in the storm; his body shall be mingled with the dust of the plowman and be known no more, but the powers of his mind shall be a stream of light to other times."

The accumulation of cares upon Mr. Henry at this period was not alone due to his effort to relieve himself of debt. Sickness and death among his near relations had deeply afflicted him, and thrown upon him much of the care of others. In February preceding, his grandson, Edmund Fontaine, had died, just as he was giving promise of a brilliant career at the bar. Of him Mr. Venable writes in his diary: "This young man, though modest, was bright, and had he lived must have made a great and useful man; an amiable, friendly disposition, free from jealousy or revenge. Pity is it that so bright a star should set so soon." In a short time John Fontaine followed his son to the grave, and left his widow and children to the care and protection of her father. Mr. Henry's sister, Anne Christian, had lately died leaving her estate in his hands for settlement, and her only son, John Henry Christian, to his guardianship. She had never returned to Kentucky after she came to Virginia as a widow. A victim to consumption, she sought relief in the West Indies, but finding her disease too far ad-

vanced she attempted to return, and died and was buried at sea in the winter of 1790–1.[1] At the time that Mr. Venable wrote the entry in his diary of May 10, 1792, or soon afterward, Mr. Henry's third son, Edward, was very sick at the house of Colonel William Fleming, in Botetourt County. He happily recovered, as the following grateful letters show:

"P. EDWARD, Aug. 11th, 1792.

"DEAR SIR: I beg leave to make you my best acknowledgements for your care and attention to my son. I persuade myself that he also entertains a proper sense of gratitude for your goodness. I hope it will not be long before he will render you some compensation as an evidence of it. I request you to tender my respectfull compliments to your worthy lady; & believe me to be with sincere attachment and very high esteem and regard,

"dear Sir,

"Your obliged Friend & Servant,

"P. HENRY.

"To Col. Wm Fleming, Botetourt."

"PRINCE EDWARD, August 14, 1792.

"DEAR SIR: I beg you to accept the books which accompany this, as an evidence of my gratitude for your goodness to my son. The money you expended on his behalf shall be paid as soon as account of it is rendered.

"I am with great regard, dear sir,

"your most obedient servant,

"P. HENRY.

"To Col. Wm Fleming."

After his recovery from this sickness, young Edward Henry went to the home of his Aunt Susanna,

[1] Whitsitts's Caleb Wallace, 119.

the wife of Colonel Thomas Madison, of Botetourt County, who lived not far from Colonel Fleming He seems to have still needed attention, which was kindly afforded him, as the following letter shows.

"PRINCE EDWARD, Sept. 19, 1792.

"DEAR SIR: I am under very high and lasting obligations to you for your attention and goodness to my son Neddy. He is also very sensible himself how much he is indebted to you for your kindness. I hope he will show himself worthy and grateful. I shall be better pleased to see him independent by his own industry than ever so rich by the favor of any person he might marry. I must turn him loose to shift for himself, after giving him a plantation and some negroes at Leatherwood this fall. I am getting over my illness, thank God, but severely feel the loss of not attending court, as I have to pay a great deal of money, and my negroes do not gain anything. If any papers are wanting for the backwoods lawsuit, pray describe them particularly.

"I commit Neddy to your care to dispose of him as you think best. I hope it may be in my power to return the obligation at some time or other. Give my love to my dear sister, and believe me to be

"Y^{r} ever oblig^{d} & aff^{t},

"P. HENRY.

"TO COLONEL THOMAS MADISON."

The young man had another, and a very severe, spell of sickness the next fall, and died in the fall of 1794.

With all this care upon his shattered constitution, it is not to be wondered at, that Mr. Venable's diary

contains the following entries a little later. "Friday, September 7, attended District court of Prince Edward. Tazewell and W. Nelson judges, Patrick Henry sick; many cases were continued for him." "Thursday, September 20, New London. Court adjourned at eight o'clock at night. Business much retarded by absence of P. Henry." It is probable that this sickness was the immediate result of a trip to Greenbrier, to engage in a trial which has been described by Judge Roane as follows:

"About the year 1792 one Holland killed a young man in Botetourt. The young man was popular and lived, I think, with King, a merchant in Fincastle, who employed John Breckenridge[1] to assist in the prosecution of Holland. Holland had gone up from Louisa as a schoolmaster, but had turned out badly, and was very unpopular. The killing was in the night, and was generally believed to be murder. He was the son of one Dr. Holland, who was yet living in Louisa, and had been one of Mr. Henry's juvenile friends and acquaintances. At the instance of the father, and for a reasonable fee, Mr. Henry undertook to go to Greenbrier Court to defend Holland. Mr. Winston and myself were the judges. Such were the prejudices there, as I was afterward informed by Thomas Madison, that the people declared that even Patrick Henry need not come to defend Holland unless he brought a jury with him. The day of trial the court-house was crowded, and I did not move from my seat for 14 hours, and had no wish to do so. The examination took up a great part of the time, and the

[1] A man of genius, afterward Attorney-General under Jefferson.

lawyers were probably exhausted. Breckenridge was eloquent, but Henry left no dry eye in the court-house. The case, I believe, was murder, though possibly manslaughter only, and Henry laid hold of this possibility with such effect as to make all forget that Holland had killed the store-keeper, and presented the deplorable case of the jury killing Holland, an innocent man. He also presented, as it were at the clerk's table, old Holland and his wife, who were then in Louisa; asked what must be the feelings of this venerable pair at this awful moment, and what the consequences to them of a mistaken verdict affecting the life of their son. He caused the jury to lose sight of the murder they were trying, and weep with old Holland and his wife, whom he painted, and perhaps proved to be, very respectable. All this was done in a manner so solemn and touching, and a tone so irresistible, that it was impossible for the stoutest heart not to take sides with the criminal. During the examination the bloody clothes were brought in. Mr. Henry objected to their exhibition, and applied most forcibly and pathetically Anthony's remarks on Cæsar's wounds; on those dumb mouths which would raise the stones of Rome to mutiny. He urged that this sight would totally deprive the jury of their judgment, which would be merged in their feelings. The motion fell, Mr. Winston being of opinion to reject them; I was of opinion to receive them as explanatory of the nature of the crime, by showing in what direction the strokes were given. The result of the trial was that, after a retirement of an half or a quarter of an hour, the jury brought in a verdict of *not guilty!* But on being reminded by the court that they might find an inferior degree of homicide, they then brought in a verdict of manslaughter." [1]

[1] MS. Letter to Mr. Wirt.

After giving this example of Mr. Henry's tragic power, Judge Roane proceeds to illustrate his comic power as exhibited in his court. He says:

"Mr. Henry was equally successful in the comic line. Mr. Wirt has heard no doubt how he choused John Hook out of his cause, by raising the cry of 'Beef' against him. I will give a similar instance. About the year 1792 there were many suits on the south of James River for inflicting Lynch law. A verdict of $500 had been given in Prince Edward district court in a case of this kind. This alarmed the defendant in the next case, who employed Mr. Henry to defend him. The case was that a waggoner and the plaintiff were travelling to Richmond, and the waggoner knocked down a turkey and put it into his waggon. Complaint was made to the defendant, a justice, both the parties were taken up, and the waggoner agreed to take a whipping rather than be sent to jail, but the plaintiff refused. The justice, however, gave him also a small whipping, and for this the suit was brought. The plaintiff's plea was that he was wholly innocent of the act committed. Mr. Henry, on the contrary, contended that he was a party aiding and assisting. In the course of his remarks he thus expressed himself: 'But, gentlemen of the jury, this plaintiff tells you that he had nothing to do with the turkey—I dare say, gentlemen, not until it was *roasted*,' etc. He pronounced the word *roasted*, with such rotundity of voice, and comicalness of manner and gesture, that it threw everyone into a fit of laughter at the plaintiff, who stood up in the place usually allotted to criminals, and the defendant was let off with little or no damage."[1]

The case of John Hook, alluded to by Judge Roane, was brought in 1783 against John Venable,

[1] MS. Letter of Judge Roane to Mr. Wirt.

the son of William Venable, of Louisa, Mr. Henry's old friend, who had been instrumental in securing his election to the House of Burgesses in 1765. After he commenced attending the District Court, at New London, Mr. Henry was employed to defend the suit, which had lingered on the docket. The following is Mr. Wirt's account of the trial, which took place September 19, 1789, in a crowded court-room.[1]

"Hook was a Scotchman, a man of wealth, and suspected of being unfriendly to the American cause. During the distresses of the American army consequent on the joint invasion of Cornwallis and Phillips, in 1781, a Mr. Venable, an army commissary, had taken two of Hook's steers for the use of troops. The act had not been strictly legal, and on the establishment of peace, Hook, under the advice of Mr. Cowan, a gentleman of some distinction in the law, thought proper to bring an action of trespass[2] against Mr. Venable, in the district court of New London. Mr. Henry appeared for the defendant, and is said to have disported himself in this cause to the infinite enjoyment of his hearers, the unfortunate Hook always excepted. After Mr. Henry became animated in the cause, says a correspondent,[3] he appeared to have complete control over the passions of his audience; at one time he excited their indignation against Hook; vengeance was visible in every countenance; again when he chose to relax and ridicule him, the whole audience was in a roar of laughter. He painted the distresses of the American army, exposed almost naked to the rigour of a winter's sky, and marking the frozen ground over which they marched with the blood from their un-

[1] So says Judge Stuart in his account to Mr. Wirt. MS.

[2] The action was in trover and conversion, as appears by the record.

[3] Judge Stuart.

shod feet. 'Where was the man,' said he, 'who had an American heart in his bosom, who would not have thrown open his fields, his barns, his cellars, the doors of his house, the portals of his breast, to have received with open arms, the meanest soldier in the little band of famished patriots? Where is the man? There he stands—but whether the heart of an American beats in his bosom, you, gentlemen, are to judge.' He then carried the jury, by the powers of his imagination, to the plains around York, the surrender of which had followed shortly after the act complained of; he depicted the surrender in the most glowing and noble colours of his eloquence—the audience saw before their eyes the humiliation and dejection of the British, as they marched out of their trenches—they saw the triumph which lighted up every patriot face, and heard the shouts of victory, and the cry of Washington and liberty, as it rung and echoed through the American ranks, and reverberated from the hills and shores of the neighbouring river—'but hark! what notes of discord are these which disturb the general joy, and silence the acclamations of victory—they are the notes of *John Hook*, hoarsely bawling through the American camp, *beef! beef! beef!*'

"The whole audience were convulsed; a particular incident will give a better idea of the effect than any general description. The clerk of the court, unable to command himself and unwilling to commit any breach of decorum in his place, rushed out of the court-house and threw himself on the grass, in the most violent paroxysm of laughter, where he was rolling, when Hook, with very different feelings, came out for relief into the yard also. 'Jemmy Steptoe,' said he, to the clerk, 'what the devil ails ye, mon?' Mr. Steptoe was only able to say that *he could not help it.* 'Never mind ye,' said Hook, 'wait till Billy Cowan gets up; *he'll show* him the la'.'

"Mr. Cowan, however, was so completely overwhelmed by the torrent which bore upon his client, that when he rose to reply to Mr. Henry, he was scarcely able to make an intelligible or audible remark. The cause was decided almost by acclamation. The jury retired for form sake, and instantly returned with a verdict for the defendant. Nor did the effect of Mr. Henry's speech stop here. The people were so highly excited by the tory audacity of such a suit, that Hook began to hear around him a cry more terrible than that of *beef;* it was the cry of *tar and feathers:* from the application of which it is said that nothing saved him but a precipitate flight and the speed of his horse."

A copy of the record of the case shows that the verdict was for one penny damages, and one penny costs to be paid to the plaintiff; a complete triumph for the defendant. The District Court has long since been discontinued, but the old town of New London remains, made celebrated by Mr. Wirt's graphic account of this trial. The old court-house, and Johnny Hook's store, are pointed out to the traveller as objects of interest, and he is considered ignorant indeed, if he is not familiar with the incidents of the trial. Mr. Hook was a man of large means and high character, and was justly respected for his virtues. His want of sympathy with the revolutionary cause, and his Scotch courage in defending his rights, placed him in a position in which he was exposed to Mr. Henry's powers of ridicule, but it is not just to estimate his character by this incident.

It was doubtless at New London that General Andrew Jackson met with Mr. Henry. The ac-

count was given by Jackson's friend, Colonel Avery, who said:

"I was present one evening in Jonesboro, when General Jackson was talking to some dozen of his friends. He told them that in passing through a town in Virginia he learned at breakfast that Patrick Henry was to defend a criminal that day. He was induced to stop. 'No description I had ever heard,' said Jackson, warmly, 'no conception I had ever formed had given me any just idea of the man's powers of eloquence.'"[1]

It is also quite certain that it was at this old town, the residence in his youth of Rev. Conrad Speece,[2] a Presbyterian minister of extraordinary intellect, that the trial occurred which has been so admirably described by him, in an article written some years afterward. He says:

"Many years ago, I was at the trial, in one of our district courts, of a man charged with murder. The case was briefly this: the prisoner had gone, in execution of his office as a constable, to arrest a slave who had been guilty of some misconduct, and bring him to justice. Expecting opposition in the business the constable took several men with him, some of them armed. They found the slave on the plantation of his master, within view of his house, and proceeded to seize and bind him. His mistress seeing the arrest, came down and remonstrated vehemently against it. Finding her efforts unavailing, she went off to a barn where her husband was, who was presently seen running briskly to the house. It was known he always kept a loaded rifle over his

[1] Parton's Jackson, i., 164.

[2] See sketch of him in Foote's Sketches of Virginia, ii., 349.

door. The constable now desired his company to remain where they were, taking care to keep the slave in custody, while he himself would go to the house to prevent mischief. He accordingly ran towards the house. When he arrived within a short distance of it, the master appeared coming out of the door with his rifle in his hand. Some witnesses said that as he came to the door he drew the cock of the piece, and was seen in the act of raising it to the position of firing. But upon these points there was not an entire agreement in the evidence. The constable, standing near a small building in the yard, at this instant fired, and the fire had a fatal effect.

"No previous malice was proved against him; and his plea upon trial was that he had taken the life of his assailant in necessary self-defence.

"A great mass of testimony was delivered. This was commented upon with considerable ability by the lawyer for the commonwealth, and by another lawyer engaged by the friends of the deceased for the prosecution. The prisoner was also defended in elaborate speeches, by two respectable advocates. These proceedings brought the day to a close. The general whisper through a crowded house was that the man was guilty, and could not be saved.

"About dusk, candles were brought, and Henry arose. His manner was exactly that which the *British Spy* describes with so much felicity: plain, simple, and entirely unassuming. 'Gentlemen of the jury,' said he, 'I dare say we are all very much fatigued with this tedious trial. The prisoner at the bar has been well defended already, but it is my duty to offer you some further observations in behalf of this unfortunate man. I shall aim at brevity. But should I take up more of your time than you expect, I hope you will hear me with patience, when you consider *that blood is concerned.*' I can-

not admit the possibility that anyone who never heard Henry speak, should be made fully to conceive the force of expression which he gave to those few words, '*blood is concerned.*' I had been on my feet through the day, pushed about in the crowd, and was excessively weary. I was strongly of opinion too, notwithstanding all the previous defensive pleadings, that the prisoner was guilty of murder; and I felt anxious to know how the matter would terminate. Yet when Henry uttered these words, my feelings underwent an instant change. I found that everything within me answered at once, 'yes, since *blood* is concerned, in the name of all that is righteous, go on; we will hear you with patience until the rising of to-morrow's sun.' This bowing of the soul must have been universal; for the profoundest silence reigned, as if our breath had been suspended. The spell of the magician was upon us, and we stood like statues around him. Under the touch of his genius, every particular of the story assumed a new aspect, and his cause became continually more bright and promising. At length he arrived at the fatal act itself. 'You have been told, gentlemen, that the prisoner was bound by every obligation to avoid the supposed necessity of firing, by leaping behind a house near which he stood at that moment. Had he been attacked with a club, or with stones, the argument would have been unanswerable, and I should feel myself compelled to give up the defence in despair. But surely I need not tell you, gentlemen, how wide is the difference between sticks or stones, and double-triggered *loaded rifles cocked at your breast.*' The effect of this terrific image, exhibited in this great orator's peerless manner, cannot be described. I dare not attempt to delineate the paroxysm of emotion which it excited in every heart. The result of the whole was that the prisoner was acquitted; with

the perfect approbation, I believe, of the numerous assembly who attended the trial. What was it that gave such transcendent force to the eloquence of Henry? His reasoning powers were good, but they have been equalled by those of many other men. His imagination was exceedingly quick, and commanded all the stores of nature as materials for illustrating his subject. His voice and delivery were inexpressibly happy. But his most irresistible charm was the vivid feeling of his cause with which he spoke. Such feeling infallibly communicates itself to the breast of the hearer." [1]

There lived in Bedford County an old citizen of Hanover, Benjamin Rice, who had married the widow of Mr. Henry's brother. This gentleman attending court at New London, brought with him on one occasion a son by a previous marriage, who was just about to go out from his father's home. He wished to introduce him to Mr. Henry. When he did so, he said, "Here, Mr. Henry, is my young son, who is about to set out in a few days to try his fortune in the world." Mr. Henry took him by the hand, and looking into his handsome and intellectual face, said in the kindest manner, "Be of good courage, my son, and remember that the best men always make themselves." This advice was never forgotten by the young man, but it often rebuked and stimulated him when tempted by his besetting sin of idleness, as he was accustomed himself to relate.

It had great influence in shaping the life of one of the most valuable men that ever lived in Virginia. The young man was John Holt Rice, after-

[1] Howe's Virginia, 222.

ward a professor in Hampden Sidney College, a distinguished Presbyterian divine, and the founder of Union Theological Seminary, in the county of Prince Edward, of which he was the first professor.

Mr. Henry travelled to his courts in an old-fashioned stick-gig, and a tavern eight miles from New London was one of his resting places. It was so much frequented by the members of the profession that it acquired the name of "Lawyers." It is now a station on the Virginia Midland Railroad, and excites interest in the travellers from Mr. Henry's association with its history. A pleasing picture is given of him by Judge Winston, showing his earnestness in counteracting infidelity. He says: "He travelled about 1794 on a circuit (Nelson and White judges), carrying Soame Jennings,[1] of which he gave the judges a copy, desiring them at the same time not to take him for a travelling monk." [2]

Alarmed at the incoming tide of French infidelity, he had printed at his own expense, in 1789, an edition of this author's admirable volume on "Internal Evidences of Christianity," and gave it a free circulation.[3]

In the winter of 1792, Mr. Henry sold his farm in Prince Edward and purchased of General Henry Lee a very fine estate in the county of Campbell, on Staunton River, known as 'Long Island.' He removed his residence to this estate in December, 1792. Within a few weeks afterward, and before he was fully recovered from the severe sickness of the preceding fall, a messenger arrived bearing a letter

[1] On Internal Evidences of Christianity. [2] MS. Letter to Mr. Wirt.
[3] A copy of this edition is in the possession of Mr. Orin L. Cottrell, of Richmond, Va.

from Richard Randolph, then in Cumberland jail on the charge of murder. Mr. Randolph offered him two hundred and fifty guineas as a fee to defend him. Mr. Henry replied that he was too unwell to take the journey—quite a long one—from Long Island to Cumberland Court-House. Some days afterward the messenger returned with an offer of five hundred guineas as the fee, and urging him to appear at the trial, which was near at hand. Mr. Henry called his wife. "Dolly," said he, "Mr. Randolph seems very anxious that I should appear for him, and five hundred guineas is a large sum. Don't you think I could make the trip in the carriage?" Upon her assenting, the carriage was brought out, and he arrived at Cumberland Court-House in time for the examining court which convened for the trial.

Richard Randolph, the elder brother of the afterward famous John Randolph of Roanoke, was a man of wealth, extraordinary talents, of high character, and connected by blood with the best people in Virginia. The charge against him was the murder of a newly-born infant, of which he was the reputed father. The most intense excitement had been aroused against him in his county, and upon his arrest he had been refused bail. Mr. Randolph's anxiety for the result may be estimated by the array of counsel that appeared for him. He was defended by Alexander Campbell, an eminent advocate, John Marshall, and Patrick Henry.

The trial was one of the most memorable that ever occurred in Virginia. To Mr. Henry was assigned the task of examining the witnesses, which he is said to have done with wonderful skill. One in-

cident of this examination is traditional. The chief witness against the prisoner was a daughter of Archibald Cary, who after her marriage had lived in Cumberland. It may be well imagined that she had no partiality for the counsel who cross-examined her. Mr. Henry saw the necessity of breaking down her testimony, and soon found an opportunity of doing so. The witness testified that her suspicions had been aroused concerning the lady involved, and being on one occasion in the house with her, she had attempted to satisfy her curiosity by peeping through a crack in the door of the lady's chamber, while she was undressing. Mr. Henry at once resorted to his inimitable power of exciting ridicule by the tones of his voice, and in a manner which convulsed the audience asked her, "Which eye did you peep with?" The laughter in the court-room aroused the anger of the witness, which was excited to the highest pitch when Mr. Henry turned to the Court, and exclaimed in his most effective manner: "Great God, deliver us from eavesdroppers!" The court no longer heeded her testimony. As might have been expected in such a case, and with such counsel, the defence was magnificent. Mr. Henry closed for the prisoner in one of his most masterly efforts, and an acquittal was obtained, with the approval of the large audience in attendance. Mr. Randolph did not long survive the trial. He died in 1796, it was believed of the mortification which preyed upon his health. After his death it was proven that he was not the father of the child alleged to have been murdered.

Among the witnesses for the defence at this trial was John Randolph, then near the age of twenty.

He is said to have attracted Mr. Henry's attention, and excited his interest, by the manner in which he testified. He never ceased to express gratitude for the service Mr. Henry rendered his brother, and admiration for his wonderful powers of speech. Those powers he had doubtless witnessed before, as Prince Edward Court-House was but a few miles distant from Bizarre, the residence of Richard Randolph, and the home at the time of John Randolph. Only a few days afterward he heard Mr. Henry argue the British debt cause in the Federal court, at Richmond, in which the two Randolphs were deeply interested as debtors. In after-life, when he had won the reputation of being one of the most eloquent men of his day, Mr. Randolph unhesitatingly accorded to Mr. Henry the palm of oratory over all other men. He declared that "he was the greatest orator that ever lived," that "he was Shakespeare and Garrick combined, and spake as never man spake." The venerable General William S. Cabell, of Danville, Virginia, used to relate that he heard Mr. Randolph on one occasion attempt to give a description of Mr. Henry's oratory. He said:

"Randolph suddenly paused, and picking up a piece of charcoal from the hearth, and pointing to the white wall, said: 'But it is in vain for me to attempt to describe the oratory of that wonderful man. Sir, it would be as vain for me to try, with this black coal, to paint correctly the brilliant flash of the vivid lightning, or to attempt, with my feeble voice, to echo the thunder, as to convey, by any power I possess, a proper idea of the eloquence of Patrick Henry!'"

From the pen of Dr. Archibald Alexander, the celebrated president of the Theological Seminary at Princeton, whose genius so greatly influenced the history of Presbyterianism in America, we have the following admirable description of Mr. Henry as an advocate:[1]

"From my earliest childhood I had been accustomed to hear of the eloquence of Patrick Henry. On this subject there existed but one opinion in the country. The power of his eloquence was felt equally by the learned and the unlearned. No man who had ever heard him speak, on any important occasion, could fail to admit his uncommon power over the minds of his hearers. The occasions on which he made his greatest efforts have been recorded by Mr. Wirt, in his 'Life of Henry.' What I propose in this brief article is to mention only what I observed myself more than a half a century ago.

"Being then a young man, just entering on a profession in which good speaking was very important, it was natural for me to observe the oratory of celebrated men. I was anxious to ascertain the true secret of their power; or what it was that enabled them to sway the minds of hearers, almost at their will.

"In executing a mission from the Synod of Virginia, in the year 1794, I had to pass through the county of Prince Edward, where Mr. Henry then resided.[2] Understanding that he was to appear before the circuit court, which met in that county, in defence of three men charged with murder, I determined to seize the opportunity of observing for myself the eloquence of this extraordinary orator.

[1] Life of A. Alexander, 183.

[2] This is a mistake, Mr. Henry had removed from P. E.

It was with some difficulty I obtained a seat in front of the bar, where I could have a full view of the speaker, as well as hear him distinctly. But I had to submit to a severe penance in gratifying my curiosity; for the whole day was occupied with the examination of witnesses, in which Mr. Henry was aided by two other lawyers.

"In person, Mr. Henry was lean rather than fleshy, he was rather above than below the common height, but had a stoop in the shoulders which prevented him from appearing as tall as he really was. In his moments of animation, he had the habit of straightening his frame, and adding to his apparent stature. He wore a brown wig, which exhibited no great care in dressing. Over his shoulders he wore a brown camlet cloak. Under this his clothing was black, something the worse for wear. The expression of his countenance was that of solemnity and deep earnestness. His mind appeared to be always absorbed in what, for the time, occupied his attention. His forehead was high and spacious, and the skin of his face more than usually wrinkled for a man of fifty.[1] His eyes were small and deeply set in his head, but were of a bright blue color, and twinkled much in their sockets. In short, Mr. Henry's appearance had nothing very remarkable as he sat at rest. You might readily have taken him for a common planter, who cared very little about his personal appearance. In his manners he was uniformly respectful and courteous. Candles were brought into the court-house, when the examination of the witnesses closed; and the judges put it to the option of the bar whether they would go on with the argument that night or adjourn until the next day. Paul Carrington, Jr., the attorney for the State, a man of large size and uncommon dignity of person and manner, and also an accom-

[1] He was then fifty-eight.

plished lawyer, professed his willingness to proceed immediately, while the testimony was fresh in the minds of all. Now for the first time I heard Mr. Henry make anything of a speech, and though it was short, it satisfied me of one thing, which I had particularly desired to have decided; namely, whether like a player he merely assumed the appearance of feeling. His manner of addressing the court was profoundly respectful. He would be willing to proceed with the trial, but, said he, 'My heart is so oppressed with the weight of responsibility which rests upon me, having the lives of three fellow-beings depending probably upon the exertions which I may be able to make in their behalf (here he turned to the prisoners behind him), that I do not feel able to proceed to-night. I hope the court will indulge me and postpone the trial till the morning.' The impression made by these few words was such as I assure myself no one can ever conceive by seeing them in print. In the countenance, action, and intonation of the speaker, there was expressed such an intensity of feeling that all my doubts were dispelled; never again did I question whether Henry felt, or only acted a feeling. Indeed, I experienced an instantaneous sympathy with him in the emotions which he expressed; and I have no doubt the same sympathy was felt by every hearer.

"As a matter of course, the proceedings were deferred till next morning. I was early at my post; the judges were soon on the bench, and the prisoners at the bar. Mr. Carrington, afterward Judge Carrington, opened with a clear and dignified speech, and presented the evidence to the jury. Everything seemed perfectly plain. Two brothers and a brother-in-law met two other persons in pursuit of a slave, supposed to be harbored by the brothers. After some altercation and mutual abuse, one of the brothers, whose name was John Ford, raised a loaded

gun which he was carrying, and presenting it to the breast of one of the other pair, shot him dead, in open day. There was no doubt about the fact. Indeed it was not denied. There had been no other provocation than opprobrious words. It is presumed that the opinion of every juror was made up from merely hearing the testimony; as Tom Harvey, the principal witness, who was acting as constable on the occasion, appeared to be a respectable man. For the clearer understanding of what follows, it must be observed that said constable, in order to distinguish him from another of the name, was commonly called 'Butterwood Harvey,' as he lived on Butterwood Creek.

"Mr. Henry, it is believed, understanding that the people were on their guard against his faculty of moving the passions, and through them influencing the judgment, did not resort to the pathetic as much as was his usual practice in criminal cases. His main object appeared to be throughout to cast discredit on the testimony of Tom Harvey. This he attempted by causing the law respecting riots to be read by one of his assistants. It appeared in evidence, that Tom Harvey had taken upon him to act as constable, without being in commission, and that with a posse of men he had entered the house of one of the Fords in search of the negro, and had put Mrs. Ford, in her husband's absence, into a great terror while she was in a very delicate condition, near the time of her confinement.

"As he discanted on the evidence, he would often turn to Tom Harvey—a large, bold-looking man—and with the most sarcastic look call him by some name of contempt; 'this Butterwood Tom Harvey,' 'this *would be constable;*' etc. By such expressions his contempt for the man was communicated to the hearers. I own I felt it gaining on me in spite of my better judgment; so that before he was

done, the impression was strong on my mind that Butterwood Harvey was undeserving of the smallest credit. This impression, however, I found I could counteract the moment I had time for reflection. The only part of the speech in which he manifested his power of touching the feelings strongly, was when he dwelt on the irruption of the company into Ford's house, in circumstances so perilous to the solitary wife. This appeal to the sensibility of husbands—and he knew that all the jury stood in this relation—was overwhelming. If the verdict could have been rendered immediately after this burst of the pathetic, every man, at least every husband, in the house would have been for rejecting Harvey's testimony; if not for hanging him forthwith. It was fortunate that the illusion of such eloquence is transient and is soon dissipated by the exercise of sober reason. I confess, however, that nothing which I then heard so convinced me of the advocate's power, as the speech of five minutes which he made when he requested that the trial might be adjourned till the next day."

Dr. Alexander does not say what was the result of this trial, but it is stated by one of Ford's neighbors that he was acquitted.[1] The feeling against him in the community may be estimated by the following anecdote: Mr. Henry left the courthouse soon after the rendition of the verdict, and put up at a house for the night where he was not personally known to the lady keeping it. She was anxious to learn of the fate of Ford, and when told he was acquitted, broke out in a tirade against him and Mr. Henry, who, as counsel, had enabled him to escape the gallows. After leaving the room she

[1] A Mr. Spencer so informed John Henry, the author's father.

met Mr. Henry's servant, and inquired who his master was; upon learning his name she was overcome with mortification, and never ceased to apologize for her conduct as long as he remained under her roof.

Some idea of the effect of his defence may be had from the statement of one of the jury, a Mr. Halloway, who said in after-life that Mr. Henry scared him out of his wits, and made him believe that if he hung Ford he would have to answer for it at the judgment day. He said he was ever after afraid of Mr. Henry and his old cloak.[1]

To his account of this trial, Dr. Alexander adds some recollections of Mr. Henry personally, and an analysis of his power as an orator. He says:

"At an early period of my ministry, it became my duty to preach the funeral sermon of Mr. James Hunt, the father of the late Rev. James Hunt, of Montgomery County, Maryland. The death occurred at the house of a son who lived on Staunton River; Mr. Henry's residence, Red Hill, was a few miles distant, on the same river. Having been long a friend of the deceased, Mr. Henry attended the funeral, and remained to dine with the company; on which occasion I was introduced to him by Captain William Craighead, who had been an elder in President Davies's church. These gentlemen had been friends in Hanover, but had not met for many years. The two gentlemen met with great cordiality, and seemed to have great enjoyment in talking of old times.

"On the retrospect of so many years, I may be permitted to express my opinion of the extraordinary effects of Henry's eloquence. The remark is ob-

[1] Statement of Mr. Halloway to John Henry.

vious, in application not only to him but to all great orators, that we cannot ascribe these effects merely to their intellectual conceptions, or their cogent reasonings, however great; these conceptions and reasonings, when put on paper, often fall dead. They are often inferior to the arguments of men whose utterances leave little impression. It has been often said, both of Whitefield and of Henry, that their discourses, when reduced to writing, show poorly by the side of the productions of men who are no orators. Let me illustrate this by the testimony of one whom I remember as a friend of my youth.[1] . . .

"The power of Henry's eloquence was due, first, to the greatness of his emotion and passion, accompanied with a versatility which enabled him to assume at once any emotion or passion which was suited to his ends. Not less indispensably, secondly, was a matchless perfection of the organs of expression, including the entire apparatus of voice, intonation, pause, gesture, attitude, and indescribable display of countenance. In no instance did he ever indulge in an expression that was not instantly recognized as nature itself; yet some of his penetrating and subduing tones were absolutely peculiar, and as inimitable as they were indescribable. These were felt by every hearer, in all their force. His mightiest feelings were sometimes indicated and communicated by a long pause, aided by an eloquent aspect, and some significant use of the finger.

"The sympathy between mind and mind is inexplicable. Where the channels of communication are open, the faculty of revealing inward passion great, and the expression of it sudden and visible, the effects of it are extraordinary. Let these shocks of influence be repeated again and again, and all other opinions and ideas are for the moment ab-

[1] Here follows the account of General Posey as to the effect of Mr. Henry's great speech in the Convention of 1788, heretofore given.

sorbed or excluded; the whole mind is brought into unison with that of the speaker; and the spell-bound listener, till the cause ceases, is under an entire fascination. Then perhaps the charm ceases, upon reflection, and the infatuated hearer resumes his ordinary state.

"Patrick Henry, of course, owed much to his singular insight into the feelings of the common mind. In great cases, he scanned his jury and formed his mental estimate; on this basis he founded his appeals to their predilections and character. It is what other advocates do in lesser degree. When he knew that there were conscientious or religious men among the jury, he would most solemnly address himself to their sense of right, and would adroitly bring in Scriptural citations. If this handle were not offered, he would lay bare the sensibility of patriotism. Thus it was when he succeeded in rescuing the man who had deliberately shot down a neighbor who lay under the odious suspicion of being a tory, and who was proved to have refused supplies to a brigade of the American army.

"A learned and intelligent gentleman stated to me that he once heard Mr. Henry's defence of a man arraigned for capital crime. So clear and abundant was the evidence that my informant was unable to conceive any grounds of defence, especially after the law had been ably placed before the jury by the attorney for the commonwealth. For a long time after Henry began, he never once adverted to the merits of the case or the arguments of the prosecution, but went off into a most captivating and discursive oration on general topics, expressing opinions in perfect accordance with those of his hearers; until having fully succeeded in obliterating every impression of his opponent's speech, he obliquely approached the subject, and as occasion was offered, dealt forth strokes which seemed to

tell upon the minds of the jury. In this case, it should be added, the force of truth prevailed over the art of the consummate orator."

Dr. Alexander adds:

"Patrick Henry had several sisters, with one of whom, the wife of Colonel Meredith, of New Glasgow, I was acquainted. Mrs. Meredith was not only a woman of unfeigned piety, but was, in my judgment, as eloquent as her brother; nor have I met with a lady who equalled her in powers of conversation."

This tribute to Mr. Henry is of great value, as it comes from a man of genius, and a gifted orator, who possessed a thoroughly well-balanced mind. Taken in connection with similar testimony from the most intellectual men of his day, Mr. Henry is shown to have completely filled Quintilian's requisites of an orator of the highest order. Says this celebrated writer:

"The life and soul of eloquence is shown in the effect on the feelings. Orators who can seize the attention of the judge, and lead him to whatever frame of mind they desire, forcing him to weep or feel angry as their words influence him, are but rarely found."[1]

It is this magic influence of the speaker over the human mind that has been universally recognized as the "soul of eloquence." It requires not only intellect of the highest order, but a manner which cannot be adequately described, and which must be

[1] Institutes of Oratory, VI., Chapter ii.

witnessed to be appreciated. It is this indescribable manner that Demosthenes referred to, when on being asked for the first, second, and third requisite of an orator, he replied each time, "ὑπόκρισις;" which Cicero translates by the rhetorical term "*actio*," and which is equivalent to the English word, "delivery." When thoughts conceived in the womb of genius are thus delivered, their communication is overpowering, and the dominion of mind over mind is complete.[1]

The estimation in which Mr. Henry was now held as a learned lawyer, as well as an eloquent advocate, is shown in the following letter from the Governor of Virginia, offering him employment in one of the most important law cases in which the commonwealth was ever involved.

"IN COUNCIL, December 24, 1794.

"SIR: The claim of the commonwealth to that part of the Manor of Leeds, which lies in the county of Fauquier (containing 90,000 acres), has been prosecuted to the attainment of a judgment in the district court of Dumfries, where the title was tried on the inquisition taken before the escheator, and the plea, traverse and monstrance de droit, filed on

[1] The lasting impression Mr. Henry's manner made upon his audience is illustrated by the following extracts from letters of the Venerable Robert C. Winthrop to the author. Says he: "Did I ever tell you that in 1832, fifty years ago, I passed a day or two with Governor James Barbour, before proceeding to Montpelier to pass a day or two with Mr. Madison, and that Barbour entertained and charmed me with his account of Patrick Henry, and gave me a most vivid impression of his eloquence by rising and reciting in the most animated manner, with gesticulations and even stamping of the foot, a long passage of one of Mr. Henry's most memorable speeches? . . . When I have heard Clay at his very best and under some extraordinary excitement, I have thought he must have approached Patrick Henry, as Barbour described and impersonated him."

the part of Denny Fairfax. The cause is from thence brought up, and now depending in the court of appeals; and as it is not only important in itself, but its discussion will govern in all similar cases, the Executive, from impressions both of duty and inclination, are extremely anxious to commit its management to the most competent counsel. Under the hope that your undertaking for the State on this occasion will not be incompatible with your other avocations, and a full confidence in your invariable attachment to the public interest, I take the liberty of requesting you to advocate it in this instance at the ensuing term. With the principles upon which the claim is bottomed, you have been long conversant, and for your further information respecting it I will send you the transcript of the record, as soon as I receive your permission to do so. I shall await your answer with impatience, in which you will please to be so obliging as to communicate what compensation will be satisfactory to you for the trouble a compliance with our request will subject you to.

"I am Sir with the most perfect respect, etc.,

"ROBERT BROOKE.

"TO PATRICK HENRY, ESQ."

Mr. Henry, however, had determined to retire from his profession at the end of the year, and declined the retainer. His practice had been very remunerative, and his fees, with his judicious management of his affairs, had relieved him of embarrassment and made him a wealthy man.

During the period of which we have been writing, two of Virginia's greatest statesmen, and Mr. Henry's warmest friends, passed away. George Mason died October 7, 1792, and Richard Henry Lee, June 19, 1794.

CHAPTER XLI.

IN PRIVATE LIFE.—1790-94.

Land Investments.—Treaty Between the United States and the Creek Indians.—Virginia Yazoo Company.—Removal of Mr. Henry to Red Hill.—Description of His New Home.—His Domestic Life.—His Estimate of His Political Associates.—His Religious Life.—Marriage of Two Daughters.—Commencement of French Revolution.—Condition of the Nation.—Different Impressions of Gouverneur Morris and Thomas Jefferson.—Progress of the Revolution.—War between France and England.—Washington's Policy of Neutrality.—Conduct of Genet, the French Minister to the United States.—Effect of European Affairs on American Political Parties.—Questions of Maritime Law.—Jay's Treaty.—The Whiskey Insurrection in Pennsylvania.—Opposition to Washington's Administration.

In making investments Mr. Henry availed himself of the public lands put upon the market, and his selections were made with a discrimination which attested his business capacity. He lived to sell or exchange some of these lands at a considerable advance, and to acquire large tracts in the better settled parts of the country, which he gave to his oldest sons.

Two of his land investments, however, were not so fortunate, by reason of governmental action. These were in the State of Georgia. The first was a tract at the bend of the Tennessee River, in lands ceded to Georgia by the Creek Indians by treaties entered into in 1783, and subsequently. In 1790 General Washington, in order to stop, if possible, the harassing wars carried on by the Creeks, in-

vited their great chief, McGillivray, to visit New York, for the purpose of making a treaty with him. The wily savage wrote to the Spanish governor at New Orleans as he was setting out, assuring him of fidelity to Spain notwithstanding any treaty he might make, and asking for an annual stipend of fifteen thousand dollars with which to continue his warfare upon the land settlers and the United States.[1] Arrived at New York with an escort of chiefs, McGillivray was received with marked attention, and a treaty was soon concluded, by which a liberal annuity was promised to the Creeks, an extensive territory, which they had previously ceded to Georgia, was restored to them, and McGillivray was given one hundred thousand dollars as compensation for his confiscated property, taken during his wars, and in addition the rank and pay of a brigadier-general in the army of the United States. These remarkable concessions were made in order to obtain a single clause in the treaty, whereby the Creeks promised to be "under the protection of the United States, and of no other nation whatsoever;" a promise which, if fulfilled, would have secured a permanent peace, but which they had no intention of keeping.

In the territory given up to the Creeks were the lands purchased by Mr. Henry, and we find him bitterly complaining of this high-handed act of the Federal Government, in the following letters to the Governor and one of the prominent citizens of Georgia.

[1] Gayarré's History of the Spanish Domination, 300.

"PRINCE EDWARD IN VIRGINIA, October 14th, 1790.

"SIR: The common Expressions of Thankfulness fall far short of what I feel for your Excellency's polite & friendly Intimation through Mr. Watkins. I beg Leave to offer you my best Acknowledgments for your proffered Hospitality, & have to lament that I am so circumstanced that I cannot have the Satisfaction of paying my Respects to you in Person.

"Capt. Scot is again going to your Country on the Business he formerly left unfinished. Some late Occurrences incline me to suppose that the Opposition to our Views will be discovered to be impolitic. If Congress may of Right forbid Purchases from the Indians of Territory included in the Charter Limits of your State, or any other, it is not easy to prove that any Individual Citizen has an indefeasible Right to any Land claimed under a State Patent. For, if the State territorial Right is not Sovereign & Supreme, & exclusively so, it must follow that some other Power does possess that exclusive Sovereignty: and every Title not derived from that other Power must be defective.

"I need not, however, point out to you the Danger consequent to all landed Property in the Union from an acquiescence in such Assumptions of Power, because I have understood you had your apprehensions on the Subject. I have only to wish that the Ideas you have entertained may be now acknowledged to be what the Event has shown, I mean those of an enlightened Statesman.

"It will ever give me Sincere Pleasure to hear of your Happiness and Prosperity: being with Sentiments of the highest Regard and Esteem, Sir,

"Your Excellency's obedient &

"very humble Servant,

"P. HENRY.

"His Excellency EDWARD TELFAIR,

"*Governor of Georgia.*

"Favd by Capt. Scot."

"RICHMOND, Novr. 12th, 1790.

"SIR: The particular Circumstances of this time will I trust excuse me, a stranger as I am, for troubling you with this. Our common Interest as purchasers of western Land, & also, as American Citizens, seems to be attacked by the proceedings of the general government, and I am not of a Disposition to bow down before the Threats of power, or the Usurpations of those who, from public servants, are about to make themselves considered in another character. When the late Treaty with the Creeks is considered in all its consequences, it is impossible for those immediately injured by it, to suppress their Emotions. And for those more remote from Georgia to remain unconcerned spectators of it, is inconsistent with the conduct which opposed the Encroachments attempted on American Rights. It is a Deception to urge, that Encroachments from the American Government are not dangerous. In fact, they are more to be dreaded at this particular Time in our own Government than from any other quarter. No foreign power can annoy us, Therefore from our own rulers only can Usurpation spring. In the early operations of the new system, when the world will suppose the genuine impressions & the true interpretation of it, are fresh on the minds of men, if precedents like this Treaty shall be found, it is but too easy to see the fatal Examples they will furnish for a Repetition of the like or greater Mischiefs. There is therefore no doubt remaining of the propriety of doing everything which becomes patriots, to rescue your country from the calamitys which must ensue from the present Effects & future mischiefs of this Treaty. If you demand what is to be done, I own myself at a loss to answer; but I will give you my present Thoughts unmatured as they are.

"I think then, in the first place, a decent but

spirited Remonstrance ought to be sent to the seat of power, stating your Right to the Territory, & deducing it from the crown of England down to the present time, in which the Indian Treatys relating to the Subject may also be stated. The proclamation of 1763 gave part of the Country to Georgia, & at the same Time marked out ample limits for Indian hunting-grounds. An acquiescence under these arrangements 27 years has followed. And in the moment of peace to dismember your State was surely enough to astonish Mankind, when it is considered that thereby you are placed under Circumstances proper only to those who in War own themselves conquered. But, as if this were not enough humiliating, this loss of country is declared not to be, as in every Indian Treaty hitherto has been the case, a temporary Cession of the use only, but an absolute Guaranty: by which is understood a complete Title to the Sovereignty. But this was not all which the Hand of Generosity held out to the new ally. An insulting conqueror, after possessing the country in contest in full sovereignty, could find out nothing to add, except the payment of Tribute from the vanquished, for what remained to them.

"It cannot escape observation that in all Indian negotiations under our late regal Government, a Conduct very different from this was constantly observed. Men of sufficient Understanding from the respective colonies were called upon from great Distances to superintend & guard the Interests of all concerned.

"The late Congress copied that policy. Instead of dismembering States, guarantying Countrys, & paying Tribute to Indians, they give peace, assigning them Lands to live & hunt upon, &c. But I find myself drawn into a Discussion much too lengthy, & must stop, tho' on a subject teeming with matter almost too much for Utterance. I will say nothing

of the Contemptuous Carriage of those in power, towards the servants of Georgia, who were on the spot, & whose Councils if admitted to a Hearing might have saved their Country from this disaster. Had these gentlemen been at a Distance, some excuse might have been found from a pretended necessity. But I am really distressed to feel conviction in my own mind that no decent Excuse can be found for the Agents in this fatal Treaty.

"A Dispassionate, candid Statement of Facts, addressed to every State in the Union, seems to me necessary. The particulars of the Injury you suffer are not known to many persons in the States distant from yours. The whole matter should be fairly explained to the world at large. How else can you be redressed? If unhappily the Government designedly injures your Country (which I hope is not the case), be assured that it is not yet the Sense of the Union to suffer it. For Truth obliges me to declare that I perceive in the Federal Characters I converse with in this Country an honest & patriotic care of the general Good. Remain firm therefore, & redress will be found. Intemperance & Folly only can prevent it.

"The British Armys, the Torys & Indians were lately baffled in their attempts upon Georgia. Thank God, your Case is not now so distressing. Pursue the virtuous Course & all is safe. You will find Support amongst the great Bulk of your American Brethren so long as Truth, Justice, Firmness, & good sense mark your Conduct.

"Will you pardon, Sir, the Freedom of my Expressions. My real concern for the prosperity of your Country, is my only Motive. The Assembly now sitting here have taken up the Subject of Congressional Oppression—Herewith I send you some Resolutions which will be followed by a Memorial to Congress, and probably, other Resolutions against

some proceedings of the Federal Government claiming a Right of Jurisdiction over certain military Bounty Lands beyond the Ohio River. You will see by those I send, the Temper of Virginia is not to submit to the Exercise of unrighteous Government, whilst she pays Respect to proper acts of power.

"I hope it is by this Time evident to all with you, that sound policy teaches the Encouragement of those persons who wish to attach themselves to your Soil by making purchases of it—What besides Encreased population, & consequent Weight & Strength can save you from like attempts in Time coming? The reasoning is so clear and cogent, as to need no Enlargement on the Subject.

"Endeared as Georgia is to me by the Hope of being possessed of valuable property within her limits, & where I fondly hoped to fix my posterity, I shall anxiously wait the Result of affairs at this session of your assembly—Much depends on the present moment. If it is wisely improved, the Georgia purchases & Georgia itself may be saved—& in its future prosperity will amply repay all the Anxiety & Solicitude we now experience.

"I beg of you Sir to present me to your much respected Governor in Terms expressive of the most affectionate Attachment — The Wisdom of his Maxims is now apparent—To all our other Friends & fellow-Adventurers, particularly Judge Osborne, I tender my best Respects & hearty good wishes, & am with Sentiments of perfect Esteem,

"Yr. mo. obt. & very hble Servt.

"P. Henry.

"P.S.—I would have written to Capt. Scot, but for the uncertainty of finding him with you.

"To Robert Walker, Esq., *Augusta in Georgia.*"

The intense indignation excited in Georgia by this treaty, found vent on the floor of Congress

through James Jackson, one of her delegates, in very strong language.[1]

The other transaction is more important, as it is related to certain celebrated acts of Georgia, and has been greatly misrepresented in an attempt to defame Mr. Henry's character.

In the year 1789, in view of the disposition manifested by the State of Georgia to sell her vacant lands adjoining the Mississippi, Mr. Henry united with several of his friends, men of high character, in forming what they styled "The Virginia Yazoo Company." They sent an agent to Augusta, who presented their petition to the Georgia Legislature, offering to purchase a large tract in the northwestern part of the State, the price to be "payable in the currency of the State, or any liquidated debts against the State." A bill was passed December 21, 1789, based upon this petition, which granted to the company pre-emption of the land, subject to the Indian title, for the sum of ninety-three thousand seven hundred and forty-one dollars, to be paid within two years.[2] Within a short time a small payment was made to the Treasurer of the State in paper currency. On June 11, 1790, the Legislature adopted a resolution directing the treasurer to receive in payment only gold and silver and paper currency after a certain day in August following.[3] In the meanwhile the members of the company had been buying up certificates of the debt of Georgia, construing the act authorizing the purchase as an ac-

[1] McMaster's History of the People of the United States, ii., 604.

[2] American State Papers, Public Lands, i., 157, Memorial to Congress of Virginia Yazoo Company.

[3] American State Papers, Public Lands, i , 162, Memorial of Company to Congress.

ceptance of the terms proposed in their petition. On December 12, 1791, within the time limited, they tendered through an agent, the full amount of the purchase money to the Treasurer of the State in evidences of the debt of Georgia, which were refused by him.[1] The matter rested in this condition till the winter of 1794, when the company sent another agent to Augusta, with a petition to the Legislature urging a fulfilment of the contract entered into in 1789. He found the body engaged in perfecting a sale of the lands involved, together with a large additional area, to a set of new purchasers—The Georgia Company, the Georgia Mississippi Company, the Tennessee Company, and the Upper Mississippi Company—at the price of five hundred thousand dollars.

These last purchasers were authorized by an act of January 7, 1795, to pay in specie, bank bills of the United States, and warrants on the State treasury for the years 1791–92–93–94–95.[2] The Virginia Company were not interested in this sale, none of them being among the purchasers, as they solemnly asserted in their memorial to Congress December 28, 1803, after the cession by Georgia to the United States.[3] Indeed, by this sale in 1795 the land sold the Virginia company in 1789 was taken from them. Upon the return and report of Mr. Scott, the agent, Mr. Francis Watkins, the secretary and manager of the company, wrote to Mr. Henry, March 7, 1795, giving information of the loss of the lands, and advising the dissolution of the partnership and settlement of accounts.[4] At a meeting of the company,

[1] American State Papers, Public Lands, i., 158, Memorial of Company to Congress. [2] Idem, 139. [3] Idem, 161. [4] MS.

July 25, 1795, it was determined to file a bill in the Supreme Court of the United States against the State of Georgia, to enforce their right to the tract sold them by the Act of 1789, which had been sold by the State to other companies in 1795, and Mr. Henry and David Ross were appointed a committee to prosecute the claims;[1] but the suit was prevented by the adoption of the eleventh amendment to the Constitution. After the adjournment of the Georgia Legislature it became known, that many of the members were personally interested in the companies to which these lands had been sold at an almost nominal price, and the people became thoroughly aroused by this betrayal of their interests. Another body was elected pledged to undo the fraud, and on February 13, 1796, an act was passed reciting the corruption of the previous body, and declaring the act of January 7, 1795, as well as the deeds made in pursuance thereof, to be null and void.[2] This act of January 7, 1795, became notorious as the Yazoo fraud, and a deserved infamy attached to all who were implicated in it. But so far from the Virginia Company being implicated in the fraud, they were deprived of their just rights by reason of it.

In 1794 Mr. Henry bought a fine estate on Staunton River, twenty miles below Long Island. It was called Red Hill from the soil of the hill on which the dwelling stood. He divided his residence between Long Island and this place until the year 1796, when he removed permanently to it. The dwelling-house, a plain wooden structure, was in the county of Charlotte, a few hundred yards from the

[1] American State Papers, Public Lands, i., 184. [2] Idem, 142.

Campbell line. It is described as follows by a visitor in after-years:

"It is beautifully situated on an elevated ridge, the dividing line of Campbell and Charlotte, within a quarter of a mile of the junction of Falling River with the Staunton. From it the Valley of the Staunton stretches southward about three miles, varying from a quarter to nearly a mile in width, and of an oval-like form. Through most fertile meadows, waving in golden luxuriance, slowly winds the river, overhung by mossy foliage, while on all sides gently sloping hills rich in verdure enclose the whole, and impart to it an air of seclusion and repose. From the brow of the hill, west of the house, is a scene of an entirely different character, the Blue Ridge, with the lofty peaks of Otter, appears in the horizon at a distance of nearly sixty miles.[1]

"Under the trees which shaded the lawn, and "in full view of the beautiful valley beneath, the orator was accustomed in pleasant weather to sit mornings and evenings, with his chair leaning against one of the trunks, and a can of cool spring water by his side, from which he took frequent draughts. Occasionally he walked to and fro in the yard from one clump of trees to the other, buried in revery, at which times he was never interrupted.[2] His great delight was in conversation in the society of his friends and family, and in the resources of his own mind."[3]

No disposition could be better suited to the domestic happiness he now enjoyed, than was that of Mr. Henry. All accounts agree as to the purity and loveliness of his private life. Says one who had enjoyed intimacy with him: "With respect to the

[1] Howe's History of Virginia, 221. [2] Idem. [3] Judge Roane.

domestic character of Mr. Henry, nothing could be more amiable. In every relation, as a husband, father, master, and neighbor, he was entirely exemplary. As to the disposition of Mr. Henry, it was the best imaginable. I am positive that I never saw him in a passion, nor apparently out of temper. Circumstances which would have highly irritated other men had no visible effect on him, he was always calm and collected."[1] Says another: "He was uniformly an affectionate husband and parent, and a kind master to his servants. He removed four times to places where he was personally a stranger, and always on acquaintance became a favorite neighbor."[2] His private papers contain abundant evidence of his kindness to the poor, not only in furnishing them provisions from his farm, but in loaning them money with which to buy food when his own supplies were exhausted. Such loans were often left uncollected. They also show his interest in public schools, to some of which he extended material aid. During the years of his retirement many strangers came to pay their homage, to look upon his face, and to listen to his words. Such guests were always received with a cordiality and simplicity of manner which at once put them at their ease. It was natural that his visitors should desire to learn from his own lips of the great events in which he had borne so brilliant a part, but his references to the past were free from all boasting.

"No man," says Judge Roane, "ever vaunted less of his achievements than Mr. Henry. I hardly ever

[1] Judge Roane, MS. Letter to Mr. Wirt.
[2] Judge Winston, MS. Letter to Mr. Wirt.

heard him speak of those great achievements which form the prominent part of his biography. As for boasting, he was entirely a stranger to it, unless it be that in his latter days he seemed proud of the goodness of his lands, and I believe wished to be thought wealthy. It is my opinion that he was better pleased to be flattered as to his wealth than as to his great talents. This I have accounted for by recollecting that he had long been under narrow and difficult circumstances as to property, from which he was at length happily relieved; whereas there never was a time when his talents had not always been conspicuous, though he always seemed unconscious of them." [1]

To his most intimate friends he would talk of the great characters with whom he had been associated. Judge Roane tells us:

"Mr. Henry had strong prejudices for and against many of his political associates—tho' he only expressed them to his particular friends. He had the highest opinion of George Mason's talents, patriotism, and republican principles. He considered him as a man well acquainted with the interests of the people, and warmly attached to the liberty of his country. A cordial friendship existed between them. Of R. H. Lee he did not think quite so well, and they were very often opposed to each other; yet they coalesced on great questions, as that of independence, and opposition to the Federal constitution. He was very fond of John Tyler as a warm-hearted patriot, and an honest, sensible man; and many others not necessary to be now mentioned. As to Mr. Madison, he considered him in 1783 and 4 as a man of great acquirements, but too

[1] MS. Letter to Mr. Wirt.

theoretical as a politician, and that he was not well versed in the affairs of men. This opinion increased in the convention of 1788: he was astonished that Madison would take the constitution, admitting its defects, and in a season of perfect peace; and he believed him too friendly to a strong government, and too hostile to the governments of the States. On these grounds he was rejected as a Senator in 1788, and probably his rejection was useful to Madison; for to regain the confidence of his native State he brought forward the amendments introduced in 1789 into the constitution. Henry's prejudice against Madison always remained in some degree, and to this may possibly in some measure be ascribed his alleged secession from the republican party, now headed by Madison, toward the close of his life." [1]

Nothing is more attractive in this picture of a green old age, than his relations to his children. Says Colonel Meredith, his brother-in-law: "His children were on the most familiar footing with him, and he treated them as companions and friends." [2] Another correspondent wrote to Mr. Wirt: "His visitors have not unfrequently caught him lying on the floor with a group of these little ones climbing over him in every direction, or dancing around him with obstreperous mirth to the tune of his violin, while the only contest seemed to be who could make the most noise." With his leisure his love of music seems to have revived, and he is described as fond of entertaining himself and his family with his violin and flute, and often improvising the music.

But his retirement was not a state of idleness nor

[1] MS. Letter to Mr. Wirt. [2] MS. Letter to Mr. Wirt.

of simple recreation. The care of his estates and management of his private affairs afforded him occupation, and he also assisted in the education of his younger children. For these he engaged as a tutor Thomas Campbell, the poet, then a young man wishing to come to America. The engagement was made through the poet's brother, Robert, who afterward married Mr. Henry's daughter, Sarah Butler. But the poet, then twenty years of age only, was prevented from fulfilling his engagement by the advice and authority of an older brother.[1]

He gave himself now more than ever to the study of the Bible, and of the great English divines, particularly Tillotson, Butler, and Sherlock. The sermons of the latter, he declared had removed all his doubts of the truth of Christianity, and from a volume which contained them and which was full of his pencilled notes, he was accustomed to read every Sunday evening to his family, after which they all joined in sacred music, while he accompanied them on the violin.[2] One of his neighbors going to see him found him reading the Bible. Holding it up in his hand, he said: "This book is worth all the books that ever were printed, and it has been my misfortune that I have never found time to read it with the proper attention and feeling till lately. I trust in the mercy of Heaven that it is not yet too late." [3]

It was his habit to seat himself in his dining-room every morning directly after rising, and read his Bible, and as his children would pass him for the first time he would raise his eyes from his book and

[1] See reference to this in Beattie's Life of Campbell, i., 42, 194.

[2] Tyler's Patrick Henry, 349; Life of A. Alexander, 193; Howe's History of Virginia, 221.

[3] Statement of George Dabney, MS. Letter to Mr. Wirt, Wirt's Henry.

greet them with a "good morrow." And this he would never neglect.[1]

He never gave up the habit of extracting information from persons he met by plying them with questions, and he often said to his children that he seldom met with a man who did not tell him something of which he was ignorant.[2]

In his habits of living he was remarkably temperate and frugal. He seldom drank anything but water, and his table, though abundantly spread in the Virginia fashion, was furnished with the simplest viands. His manners were those of the Virginia gentleman: kind, open, candid, and conciliating; warm without insincerity, and polite without pomp. He did not chill by reserve, nor fatigue by loquacity, but adapted himself without an effort to the character of his company. He would be pleased and cheerful with persons of any class or condition, vicious and abandoned persons only excepted. He preferred those of character and talents, but would be entertained with any who could contribute to his amusement. He had himself a vein of pleasantry which was extremely amusing without detracting from his dignity.[3] His conversation was pure and chaste, and he was free from the foibles which so often develop in old age. He had not even the habit of using tobacco, so common in Virginia. In fact, tobacco-smoke became offensive to him as he grew older, and it is said that he required his house servants to give up their pipes, and was very sure to detect them if they came where he was with the

[1] Statement of his daughter Sarah to the author. [2] Idem.

[3] Wirt's Life of Henry, 417, 428; and Judge Roane's MS. Letter to Mr. Wirt.

least smell of tobacco upon them. Judge Roane wrote of him: "As to the character of Mr. Henry, with many sublime virtues, he had no vice that I knew or ever heard of, and scarcely a foible. I have thought indeed that he was too much attached to property—a defect, however, which might be excused when we reflect on the largeness of a beloved family, and the straitened circumstances in which he had been confined during so great a part of his life."[1]

Red Hill was the scene of two marriages in Mr. Henry's family. Dorothea Spotswood, his oldest daughter by his second marriage, a beautiful girl, whose features are preserved in her portrait by the English artist, James Sharples, married George D. Winston, a son of Judge Edmund Winston and her cousin.[2] Martha Catharina, her younger sister, married in 1798, at seventeen, Edward W. Henry, a son of Judge James Henry of the Court of Appeals, who was a Scotchman by birth, and doubtless a kinsman of Colonel John Henry. There was a touch of the romantic in this union. Judge Henry was from the Eastern Shore of Virginia, and young Martha Henry, when on a visit to that section, in leaving a ship fell overboard, and was rescued from a watery grave by her gallant cousin, who was acting as her escort. This incident excited mutual feelings which soon ripened into a warm attachment. Their married happiness, however, was of short duration. The devoted couple was separated by the death of the wife in 1801, and an only child, a daughter, died before reaching maturity.

[1] MS. Letter to Mr. Wirt.

[2] Photogravure of the portrait is given in the Walter's Memorial of the Washingtons.

In the "happy valley" of the Staunton the retired statesman felt nothing of the ennui which fell upon Rasselas, the youthful prince of Abyssinia, but his repose was disturbed by reports of violent political factions, threatening the continuance of the Union; and he experienced a decided failure of his health in 1797.[1]

When Mr. Henry left public life, American politics were on the eve of great disturbance from influences originating in the terrible civil convulsions in France.

The American Revolution, as we have seen, had for its object the preservation of the political rights of the colonies. Commencing in 1765, in their resistance to the Stamp Act, it had moved with steady step to its final consummation in the adoption of the Federal Constitution in 1788, and its first amendments in 1791. The whole movement had been eminently conservative and wise, following the suggestion of Bacon, who says: "It were good that men in their innovations, would follow the example of time, which indeed innovateth greatly, but quietly and by degrees."

A strong religious feeling pervaded the people, restraining their passions and imparting wisdom to their actions. The great and the good throughout the world looked on in admiration, as they saw this branch of the Anglo-Saxon race bravely winning, and wisely securing, the liberty for which the world had so long sighed.

Very different was the French Revolution which began at the close of the American. The French people were in a truly debased condition, the result

[1] MS. Letter of Judge Roane to William Wirt.

of years of misrule by the predecessors of Louis XVI. This young king was weak and irresolute, "wavering cameleon-like, changing colour and purpose with the colour of his environment—good for no kingly use." [1] The nobility were spell-bound by the charm of caste, holding all the useful arts in lofty contempt, and for the most part non-residents on their property; wasting in the dissipation of Paris those means which should have been employed in ministering to the comforts and happiness of their dependents. The middle class and the peasantry were full of discontent. The latter were oppressed by the feudal services due to their superiors, which kept most of them in extreme and demoralizing poverty. The educated classes had been corrupted by the infidel writings of Voltaire, Rousseau, and the Encyclopædists, who aimed to strike down religion and social order, along with the abuses practised in their name. The church and the army shared in the general corruption and afforded no check to the rising tide.

Such was the condition of France when the American Revolution took place. The alliance between the two countries introduced into the hoary and decaying monarchy American ideas of civil liberty, which at once put forth a vigorous growth. This was greatly stimulated by the return of the victorious army, enthused with American republicanism. Soon the most radical propositions, fraught with danger to monarchy, were openly discussed, and generally advocated. The empty treasury of the king forced him to call an assembly, and the elections indicated the ferment in the public mind.

[1] Carlyle.

The people of the United States looked with the keenest interest, and the warmest sympathy, upon the development of their own cherished ideas on the soil of their ally, not suspecting the volcano which was kindling. It should be noted, however, that one of the most distinguished of our citizens, Gouverneur Morris, Minister to France, apprehended something of the danger ahead. He wrote to Washington on April 29, 1789, just before the meeting of the States-General:

"The materials for a revolution in this country are very indifferent. Everybody agrees that there is an utter prostration of morals; but this general position can never convey to an American mind the degree of depravity. It is not by any figure of rhetoric, or force of language, that the idea can be communicated. A hundred anecdotes and a hundred thousand examples are required to show the extreme rottenness of every member. There are men and women who are gentle and eminently virtuous. I have the pleasure to number many in my own acquaintance. But they stand forward from a background deeply and darkly shaded. It is however from such crumbling matter that the great edifice of freedom is to be erected here. Perhaps like the stratum of rock which is spread under the whole surface of their country, it may harden when exposed to the air; but it seems quite as likely that it will fall and crush the builders. I own to you that I am not without such apprehensions, for there is one fatal principle which pervades all ranks. It is a perfect indifference to the violation of engagements. Inconstancy is so mingled in the blood, marrow, and very essence of this people, that when a man of high rank and importance laughs to-day at what he seriously asserted yesterday, it is consid-

ered as in the natural order of things. Consistency is a phenomenon. Judge then what would be the value of an association, should such a thing be proposed, and even adopted. The great mass of common people have no religion but their priests, no law but their superiors, no morals but their interest. These are the creatures who, led by drunken curates, are now on the high road *à la liberté*."

Mr. Jefferson, who had been for some years preceding Minister to France, whose mind was decidedly radical in its character, and who had become embued with French philosophy, took a different view of the situation. On March 13, 1789, on the eve of sailing for the United States, he wrote to Count De Moustier, the French Minister to the United States:

"The affairs of this country go on more auspiciously than the most sanguine could have expected. The difficulties of procuring money, and of preventing a bankruptcy, continue always at such a point as to leave the administration no resource but that of an appeal to the nation, and the nation, availing itself of this advantageous position, presses on sufficiently to obtain reasonable concessions, and yet not so much as to endanger an appeal to arms." [1]

The meeting of the Assembly at once developed the revolution which had been brooding. The spirit it developed was that of indiscriminate warfare on the past. Everything which had gone before, whether sacred or profane, was to be destroyed, and the future was to be a new creation. This principle was boldly proclaimed by M. Rabaud St.

[1] Jefferson's Works, ii., 588.

Etienne, one of the presidents of the National Assembly, who said:

"*Tous les établissemens en France couronnent le malheur du peuple; pour le rendre heureux, il faut le renouveller; changer ses idées; changer ses loix; changer ses mœurs; changer les hommes; changer les choses; changer les mots; tout détruire; oui, tout détruire, puisque tout est à recréer.*"

After having swept away social and political order with a besom of destruction, the revolutionists lifted their impious hands against Deity itself. They abolished Christian worship, and substituted in its stead the so-called worship of reason. On November 10, 1793, a beautiful woman of the town, partially covered with white drapery, was carried at the head of a procession to the venerable cathedral of Notre Dame, to be adored as the goddess of reason, and there "beauty without modesty was seen usurping the place of the Holy of Holies."

In 1792 monarchy was abolished, and on January 21, 1793, the king was put to death. The young republic now turned with maniacal frenzy upon the frowning monarchies of Europe, threatening to convert them by force into republics.

Lafayette, who had been a trusted leader in the beginning, but who had attempted the vain task of conducting the revolution with something of American conservatism, was declared a traitor to his country. He left the head of his army sent to attack the Austrians in the Netherlands, and threw himself upon the generosity of his enemies, only to be cast into prison.

In April, 1793, the declaration of war by France against England reached America. It created intense feeling. Sympathy for the young republic, and gratitude for the great services rendered by France on the one hand, and a deep resentment of the conduct of Great Britain during and after the revolutionary struggle on the other, produced a desire to help France which could with difficulty be restrained. Soon a disposition was seen to use American ports for fitting out privateers to prey upon the commerce of the belligerents. Washington, just entering upon his second term, wisely determined to maintain the neutrality of the United States, however general the war might be in Europe. In this he was unanimously sustained by his cabinet, which contained both Hamilton and Jefferson, the heads of the now well-defined political parties. A proclamation of neutrality was accordingly published, April 22, 1793. Early in this month Genet arrived at Charleston as the Minister of the French republic to the United States. He was received with enthusiasm, and at once commenced fitting out privateers, commissioned to commit hostilities on nations with whom the United States were at peace. On his way to Philadelphia, the seat of government, he was warmly welcomed by the people, and his ardent nature seems to have led him to believe that he could control American politics in favor of the schemes of France. When presented to the President he assured him, however, that France did not wish to engage the United States in her wars. Notwithstanding this assurance, and the proclamation of neutrality, Genet continued to fit out privateers which made captures of British merchantmen. Of this,

Hammond, the British Minister, properly complained, and Washington and his Cabinet, without a dissenting voice, determined to prevent their recurrence. Communications were accordingly addressed to the several State executives, requiring their co-operation, with force if necessary, in the enforcement of the rules adopted by the President. The action of Washington gave Genet great offence, and believing himself sustained by popular feeling, he addressed the President in the most offensive manner, complaining of his conduct, and charging that it was a "violation of the ties which unite the people of France and America," and contrary to the wishes of the American people. The Administration held its position with firmness and dignity, and at once this new bone of contention was added to the previous causes of difference between political parties. The Federalists took sides with the President, while the Republicans mainly sided with the French Minister. His warmest advocates were certain political clubs, known as "Democratic Societies," which had been formed upon the plan of the Jacobin societies, under the direction of Genet, as was charged. As these last had been the most efficient agents in inflaming the passions of the French revolutionists and directing their course, so their American imitators constituted themselves guardians of American liberty, and sought to direct the conduct of the American Government over the head of Washington.

It will be remembered that during the American Revolution, the compact known as the armed neutrality was formed by certain nations of Europe, under the lead of the Empress of Russia, by which

the doctrine that neutral bottoms should make free goods was adopted. This had been embodied into the commercial treaty between the United States and France. It had never been admitted as binding on England by her Government, which insisted on the old doctrine. This subjected to capture the goods of an enemy when found in the bottoms of a neutral. British cruisers accordingly took French property out of American vessels, and their courts condemned it as lawful prize. The acquiescence of the Federal Executive in this exposition of the law of nations greatly enraged Genet, and resulted in an insulting letter to the Secretary of State. His conduct led to a request to his government for his recall. He remained in the United States, however, and attempted to organize two expeditions, one in Kentucky against New Orleans, and the other in Georgia against Florida. These were discovered and thwarted, and his immediate dismissal was only prevented by news of his recall.

The British Orders in Council of June 8, 1793, directing the capture of all neutral vessels laden with provisions bound for France, then threatened with famine, and the orders of the French government soon afterward, directing the seizure and carrying into France of all neutral vessels laden with provisions bound for other countries, added to the perplexities of the Administration. The British Government, as if never satisfied in its irritating policy, denied the right of expatriation, and claimed and exercised the right of searching American vessels for sailors of English birth, and of impressing them.

In order to avoid the hostilities which were likely to occur, John Jay, the Chief Justice of the United States, was sent as Special Minister to England, empowered to negotiate a treaty of amity and commerce, and Colonel James Monroe, an adherent of Mr. Jefferson, and warm sympathizer with France, was appointed to succeed Gouverneur Morris, who had become obnoxious to the French.

Judge Jay's appointment was unfortunate, in that he had already committed himself to the position that the United States were guilty of the first infraction of the treaty of 1783, on which ground the British had withheld the western posts. Accordingly, in the negotiations which followed he yielded much to which the United States were entitled. The treaty he effected was received in America in March, 1795, and at once excited a bitter hostility. The Republicans denounced it as dictated by the English in their own interest, and to the injury of France. It was justly liable to the severest criticism. The western posts, which should have been given up in 1783, were to be withheld till June, 1796, and no compensation was allowed for their unlawful detention. No remuneration was allowed for the property carried off by the British in contravention of the treaty of 1783, while the United States were to indemnify British creditors for losses occasioned by legal impediments to the collection of their debts. Ship timber, tar, hemp, sails, copper, and provisions were declared contraband, greatly to the injury of American commerce, and the principle was admitted that a neutral flag does not protect the ship's cargo. Nor was the right of search and impress-

ment abandoned, but left to be exercised as before. As compensation for these great disadvantages, provision was made for fixing the northern and eastern boundary of the United States, and the British ports were opened to American commerce, which was secured in them now for the first time by treaty.

When transmitted to the Senate this treaty received a bare constitutional vote, which was coupled with a condition as to the modification of some of its terms. Washington, however, after much hesitation, determined to affix his signature to it as it was, without running the risk of further delay and open hostilities with Great Britain.

When, after an interchange of ratifications, the matter of voting the money necessary to carry it into effect came up in the House of Representatives, that body, under the lead of Mr. Madison, took the position that it could control the treaty-making power by refusing the necessary appropriation. It called upon the Executive to furnish it with the instructions given to Judge Jay, and the correspondence and other documents relative to the treaty. This the President declined to do, on the ground that the treaty-making power had been exclusively vested by the Constitution in the President and the Senate. On the receipt of this reply the House, after a prolonged discussion, finally determined to carry the treaty into effect.

Colonel Monroe, who had been enthusiastically received, began to make considerable progress in composing our difficulties with France, but the intelligence of the treaty with Great Britain at once put an end to his expectations, and he was soon re-

called, and France entered upon a system of retaliatory measures.

But the foreign relations of the United States were not the only source of trouble to the Administration. At the earnest solicitation of Hamilton, Congress had enacted in 1791 an excise law, taxing domestic distilled spirits. The public dissatisfaction with it caused a modification at the next session, which did not however quiet the discontent. This broke out, in the four counties of Pennsylvania west of the Alleghany Mountains, into open resistance to the enforcement of the act, which was finally suppressed in 1794, by a march to the scene of insurrection of fifteen thousand militia, from New Jersey, Pennsylvania, Maryland, and Virginia, under General Henry Lee, Governor of Virginia. Happily this show of force had the desired effect without the shedding of blood. These disorders Washington believed were encouraged by the Democratic Societies, which seemed to be making every effort to embarrass the Administration. During this trying period the press was stimulating the bitterest party feeling. Hamilton and Jefferson, as the acknowledged leaders of the two parties, were the chief objects of attack in their public and private relations. But the Republican attacks upon the Administration did not stop with the characters of the Federal members; they were aimed at the venerated character of Washington himself, and strange to say, some of the most violent appeared in the columns of the *National Gazette*, edited by Philip Freneau, a clerk in Mr. Jefferson's department.

The sympathy of Mr. Jefferson for the French

revolution was not cooled by its atrocities. On January 3, 1793, we find him writing to William Short, Minister to Holland:

"The tone of your letters had for some time given me pain, on account of the extreme warmth with which they censured the proceedings of the Jacobins of France. . . It was necessary to use the arm of the people, a machine not quite so blind as balls and bombs, but blind to a certain degree. A few of their cordial friends met at their hands the fate of enemies. But time and truth will rescue and embalm their memories, while their posterity will be enjoying that very liberty for which they would never have hesitated to offer up their lives. The liberty of the whole earth was depending on the issue of the contest, and was ever such a prize won with so little innocent blood? My own affections have been deeply wounded by some of the martyrs to this cause, but rather than it should have failed I would have seen half the earth desolated; were there but an Adam and Eve left in every country, and left free, it would be better than it now is."[1]

It was to be expected that with such feelings Mr. Jefferson would not greatly censure the rioters in Pennsylvania. Accordingly we find him sneering at Washington's account of their suppression in his speech to Congress in December, 1794. He writes to Madison, concerning it:

"I expected to have seen some justification of arming one part of the society against another, of declaring a civil war the moment before the meet-

[1] Randall's Jefferson, ii., 108.

ing of that body which has the sole right of declaring war; of being so patient of the kicks and scoffs of our enemies, and rising at a feather against our friends." [1]

The opposition to Washington's administration now led by Jefferson, openly sympathized with those engaged in the whiskey insurrection, and it was believed by Washington that it had been incited by the Democratic Clubs. That opposition had hung upon, and, in every way in their power, clogged the wheels of government, which they charged was conducted in the interest of England in her war with France. They openly espoused the cause of France, and by the revolutionary methods resorted to, seemed to threaten the country with something of the anarchy which was cursing that land. Such at least were the fears of Washington and many others.

[1] Jefferson's Works, iv., 112.

CHAPTER XLII.

COURTED BY POLITICAL PARTIES.—1790-96.

Mr. Henry Better Satisfied with the Federal Government.—Supports Washington's Policy of Neutrality.—Alarmed by the Excesses of the French Revolution.—Reverence for Washington.—Attitude Toward Parties.—Correspondence Between Henry Lee and Washington.—Washington Desires to Engage Mr. Henry in the Service of the United States.—Part Taken in the Matter by Governor Henry Lee.—Mr. Henry Offered a United States Senatorship by Him.—Washington Offers Him the Mission to Spain.—Mr. Jefferson Attempts to Attach Him to His Party through Judge Archibald Stuart.—Renewed Friendship Between Washington and Henry.—Washington Offers Him the Secretaryship of State.—Important Letter on the Occasion.—Mr. Henry's Letter Declining It.—John Marshall's Account of the Matter.—Washington Offers Him the Chief Justiceship.—Desires to Send Him as Minister to France upon the Recall of James Monroe.

MR. HENRY, though in retirement, was a close observer of political events. He had been gratified to find so many Federalists in the Legislature of 1790, openly disapproving of the grasp of power by Congress under the direction of Hamilton; and on November 12, 1790, he had written to Robert Walker, at Augusta, Georgia, "Truth obliges me to declare that I perceive in the Federal characters I converse with in this country an honest and patriotic care of the general good." The adoption of the first ten amendments to the Constitution, while far from all he desired, had in a great measure reconciled him to the new government. His venera-

tion for Washington, because of his pure character and great services, was not abated, although he was led to believe that Washington's feelings toward him had changed. This impression was confirmed by a false report of Washington's remarks concerning him on passing through his county, in 1791, on his return from his Southern tour. Mr. Henry was told that he spoke of him as "a factious, seditious character," and nothing could have wounded him more deeply. Nevertheless he did not allow his wounded feelings to affect his patriotism, and when Washington's policy of neutrality was proclaimed, he, together with Richard Henry Lee and other Republicans, openly defended it. He had been, in common with his countrymen, deeply interested in the success of the French Revolution in its first stages. But he was too sagacious an observer of events to be long deluded by its false promises. He drew back instinctively, and with horror, from the fruition of French infidelity. During the second trial of the British Debt cause, in May, 1793, he expressed his opinions upon the political situation, which were soon after reported to Washington by Edmund Randolph, who had been sent to Richmond to ascertain the public feeling toward the Administration. Randolph, wrote from that city, June 24, 1793:

"The late debates concerning British debts have served to kindle a wide-spreading flame. The debtors are associated with the anti-federalists and the discontented federalists; and they range themselves under the standard of Mr. Henry, whose ascendency has risen to an immeasurable height.

But I was happy to learn from Colonel Innes that he has been loud in reprobating the decapitation of the French king, and is a friend to peace and the steps pursued for its security; adding that nothing would induce him to vote for war but the redemption of the Marquis de La Fayette. He grows rich every hour, and thus his motives to tranquillity must be multiplying every day."[1]

It was doubtless these views which led Judge Iredell, one of the judges, and a warm Federalist, to write May 27, 1793:

"The great Patrick Henry is to speak to-day. I never was more agreeably disappointed than in my acquaintance with him. I have been much in his company and his manners are very pleasing, and his mind, I am persuaded, highly liberal. It is a strong additional reason I have added to many others to hold in high detestation violent party prejudice."[2]

The following anecdote, preserved in the manuscript of David Meade Randolph, further illustrates the regard shown by Mr. Henry to General Washington at this exciting period, when it was too much the habit of the Republicans to depreciate him. Says this gentleman:

"The purity of Mr. Henry's republicanism was shewn, when dining with his brother, Colonel John Syme, at Rocky Mills, during a May session of the Circuit Court, held by Judge Iredell, in Richmond. The company was composed of very respectable characters of both parties. The people,' as the first toast upon removing the cloth, was announced very

[1] Edmund Randolph, by Conway, 153.
[2] McKee's Life of Iredell, ii., 394.

audibly by the host. Mr. Henry, pushing his old black wig aside, as was his custom when much excited, and with his elbows akimbo, exclaimed, 'What, brother, not drink to General Washington as we used to do? For shame, brother! for shame!' and filling up his glass with a bumper of Thomson's Madeira, announced the name of WASHINGTON."[1]

Although Mr. Henry's ascendancy over the anti-Federalists in Virginia was greater than ever, his anti-Federalism consisted in restricting the Federal Government to its constitutional bounds. In this, and in this only, he was a Republican. His sound judgment and independent habit of thought kept him from following the Republican party, in its advocacy of the dangerous measures sought to be enforced by the professed friends of the French Revolution. He was always ready to support the Government in its legitimate powers, regarding it as the choice of his countrymen; and the declaration to this effect, which he uttered in taking leave of the Convention of 1788, he kept with the faith of true patriotism. It was from a knowledge of this conduct that General Henry Lee, now Governor of the State, who knew Washington's determination to keep aloof from party alliances, conceived the idea of adding, if possible, the great influence of Mr. Henry's name to the support of the Administration. In the month of February, 1793, he was in Philadelphia attending to the interest of the State in the suit brought against her in the Supreme Court by the Indiana Company. He thus had an opportunity of conversing freely with the President in ref-

[1] Southern Literary Messenger, i., 332.

erence to Mr. Henry, and found that he heartily approved tendering him employment under the Federal Government. The difficulty was in finding for him an office of sufficient dignity in case he was willing to serve at all. A seat on the Supreme Court was determined on as the most suitable position, and the one most likely to be accepted. When Governor Lee, on his return, spoke of the matter to Mr. Henry, he found he had been deeply wounded at the reported remarks of General Washington concerning him, in 1791, while passing through Prince Edward. This Governor Lee related to Washington in the following letter, which will be given entire, as it refers to the prevailing feeling in Virginia as to the conduct of the Administration regarding the whiskey insurrection, and to a reported remark of Mr. Jefferson, who had resigned the office of Secretary of State and retired to Monticello, and because of its important bearing upon subsequent events.

"RICHMOND, August 17, 1794.

"MY DEAR SIR: Your late orders for a detachment of militia, and your proclamation, give birth to a variety of sensations and opinions. All good citizens deplore the events which have produced this conduct on your part, and feel but one determination, to maintain inviolate our happy government at the risk of their lives and fortunes. There are some among us, from the influence of party spirit, and from their own ambitious views, who rejoice in national adversity, and gladden when they hear of governmental embarrassments. I am gratified in telling you, that the great body of this state will exert themselves in whatever way you may direct to the utmost of their power; and I am

persuaded that you may count with certainty on their zeal and determination. The awful occasion demands united efforts, and I beg leave to offer to you my services in any way or station you may deem them proper.

"When I saw you in Philadelphia, I had many conversations with you respecting Mr. Henry, and since my return I have talked very freely and confidentially with that gentleman. I plainly perceive that he has credited some information, which he has received (from whom I know not), which induces him to believe that you consider him a factious, seditious character, and that you expressed yourself to this effect on your return from South Carolina, in your journey through this state, as well as elsewhere. Assured in my own mind that his opinions are groundless, I have uniformly combated them, and lament that my endeavours have been unavailing.

"He seems to be deeply and sorely affected. It is very much to be regretted, for he is a man of positive virtue as well as transcendent talents, and were it not for his feelings above expressed, I verily believe he would be found among the most active supporters of your administration. Excuse me for mentioning this matter to you. I have long wished to do it, in the hope that it will lead to a refutation of the sentiments entertained by Mr. Henry. A very respectable gentleman told me the other day, that he was at Mr. Jefferson's, and among inquiries which he made of that gentleman, he asked if it were possible that you had attached yourself to Great Britain, and if it could be true that you were governed by British influence, as was reported by many. He was answered in the following words: 'That there was no danger of your being biassed by considerations of that sort, so long as you were influenced by the wise advisers, or advice, which you

at present had.' I requested him to reflect, and reconsider, and to repeat again the answer. He did so, and adhered to every word.

"Now, as the conversation astonished me, and is inexplicable to my mind, as well as derogatory to your character, I consider it would be unworthy in me to withhold the communication from you. To no other person will it ever be made. Wishing you every happiness,

"I am yours &c.,

"HENRY LEE." [1]

To this Washington replied:

(Private.)

"GERMANTOWN, August 26, 1794.

"DEAR SIR: Your favor of the 17th came duly to hand, and I thank you for its communications. As the insurgents in the western counties of this State are resolved, as far as we have yet been able to learn from the commissioners who have been sent among them, to persevere in their rebellious conduct until what they call the excise law is repealed, and acts of oblivion and amnesty are passed, it gives me sincere consolation, amidst the regrets with which I am filled by such lawless and outrageous conduct, to find by your letter above mentioned, that it is held in general detestation by the good people of Virginia, and that you are disposed to lend your personal aid to subdue this spirit, and to bring those people to a proper sense of their duty.

"On this latter point I shall refer you to letters from the war office, and to a private one from Colonel Hamilton (who, in the absence of the Secretary of War, superintends the military duties of that department), for my sentiments on this occasion.

[1] Writings of Washington, x., 561.

"It is with equal pride and satisfaction I add that, as far as my information extends, this insurrection is viewed with universal indignation and abhorrence, except by those who have never missed an opportunity by side blows or otherwise to attack the general government; and even among these there is not a spirit hardy enough yet openly to justify the daring infractions of law and order; but by palliatives they are attempting to suspend all proceedings against the insurgents, until Congress shall have decided on the case, thereby intending to gain time, and if possible to make the evil more extensive, more formidable, and of course, more difficult to counteract and subdue. I consider this insurrection as the first formidable fruit of the democratic societies, brought forth, I believe, too prematurely for their own views, which may contribute to the annihilation of them.

"That these societies were instituted by the artful and designing members (many of their body I have no doubt mean well, but know little of the real plan) primarily to sow among the people the seeds of jealousy and distrust of the government, by destroying all confidence in the administration of it; and that these doctrines have been budding and blowing ever since, is not new to any one who is acquainted with the character of their leaders, and has been attentive to their manœuvres. I early gave it as my opinion to the confidential characters around me, that if these societies were not counteracted (not by prosecutions, the ready way to make them grow stronger), or did not fall into disesteem from the knowledge of their origin, and the views with which they had been instituted by their father, Genet, for purposes well known to the government, they would shake the government to its foundation. Time and circumstances have confirmed me in this opinion, and I deeply regret the probable conse-

quences; not as they will affect me personally, for I have not long to act on this theatre, and sure I am that not a man amongst them can be more anxious to put me aside, than I am to sink into profoundest retirement; but because I see, under a display of popular and fascinating guises, the most diabolical attempts to destroy the best fabric of human government and happiness that has ever been presented for the acceptance of mankind.

"A part of the plan for creating discord is, I perceive, to make me say things of others, and others of me, which have no foundation in truth. The first, in many instances *I know* to be the case; and the second I believe to be so. But truth or falsehood is immaterial to them, provided the objects are promoted.

"Under this head may be classed, I conceive, what it is reported I have said of Mr. Henry, and what Mr. Jefferson is reported to have said of me; on both of which, particularly the first, I mean to dilate a little. With solemn truth, then, I can declare that I never expressed such sentiments of that gentleman as from your letter he has been led to believe. I had heard, it is true, that he retained his enmity to the constitution; but with very peculiar pleasure I learnt from Colonel Coles, who, I am sure will recollect it, that Mr. Henry was acquiescent in his conduct, and that, though he could not give up his opinion respecting the constitution, yet unless he should be called upon by official duty, he would express no sentiment unfriendly to the exercise of the powers of a government which had been chosen by a majority of the people, or words to this effect.

"Except intimating in this conversation which, to the best of my recollection, was introduced by Coles, that report had made Mr. Henry speak a different language; and afterwards at Prince Edward

Court House, where I saw Mr. Venable, and, finding I was within eight or ten miles of Mr. Henry's seat, and expressing my regret at not seeing him, the conversation might be similar to that held with Colonel Coles; I say, except in these two instances, I do not recollect, nor do I believe, that in the course of the journey to and from the southward, I ever mentioned Mr. Henry's name in conjunction with the constitution or the government. It is evident, therefore, that these reports are propagated with evil intentions, to create personal differences. On the question of the constitution, Mr. Henry and myself, it is well known, have been of different opinions; but personally I have always respected and esteemed him; nay, more, I have conceived myself under obligations to him for the friendly manner in which he transmitted to me some insidious anonymous writings that were sent to him in the close of the year 1777, with a view to embark him in the opposition that was forming against me at that time.

"I well recollect the conversations you allude to in the winter preceding the last, and I recollect also, that difficulties occurred which you, any more than myself, were not able to remove. First, though you believed, yet you would not undertake to assert that Mr. Henry would be induced to accept any appointment under the general government; in which case, and supposing him to be inimical to it, the wound the government would receive by his refusal, and the charge of attempting to silence his opposition by a place, would be great. Secondly, because you were of opinion that no office which would make a residence at the seat of government essential, would comport with his position or views. And thirdly, because, if there was a vacancy in the supreme judiciary at that time, of which I am not at this time certain, it could not be

filled from Virginia without giving two judges to that state, which would have excited unpleasant sensations in other States. Anything short of one of the great offices it could not be presumed he would accept, nor would there, under any opinion he might entertain, have been propriety in. What is it then you have in contemplation, that you conceived would be relished? And ought there not to be a moral certainty of its acceptance? This being the case, there would not be wanting a disposition on my part, but strong inducements on public and private grounds, to invite Mr. Henry, into any employment under the general government to which his inclination might lead, and not opposed by those maxims which have been the invariable rule of my conduct.

"With respect to the words said to have been uttered by Mr. Jefferson, they would be enigmatical to those who are acquainted with the characters about me, unless supposed to be spoken ironically; and in that case they are too injurious to me, and have too little foundation in truth, to be ascribed to him. There could not be the trace of doubt on his mind of predilection in mine toward Great Britain or her politics, unless, which I do not believe, he has set me down as one of the most deceitful and uncandid men living; because, not only in private conversations between ourselves on this subject, but in my meetings with the confidential servants of the public, he has heard me often, when occasions presented themselves, express very different sentiments with an energy that could not be mistaken by anyone present. Having determined, as far as lay within the power of the executive, to keep this country in a state of neutrality, I have made my public conduct accord with the system; and whilst so acting as a public character, consistency and propriety as a private man forbid those

intemperate expressions in favor of one nation, or to the prejudice of another, which many have indulged themselves in, and I will venture to add, to the embarrassment of government, without producing any good to the country.

"With very great esteem and regard,

"I am dear Sir yours, &c.

"GEORGE WASHINGTON."[1]

Just before addressing General Washington the foregoing letter, Governor Lee had an opportunity of offering Mr. Henry a seat in the United States Senate. Colonel Monroe resigned his seat in order to accept the mission to France, and thereupon the Governor and Council appointed Mr. Henry to fill the vacancy. In transmitting the appointment, Governor Lee wrote the following graceful letter:

"RICHMOND, July 11th, 1794.

"SIR: With satisfaction as lively as it is sincere, I do myself the honor to transmit to you the enclosed testimonial of the constant and affectionate confidence which our country feels towards you.

"Honorable as is this disposition to yourself, it is not less so to the commonwealth, in as much as it undeniably manifests that signal talents and signal virtues, however concealed by retirement, command among us the highest distinction.

"With reluctance have we interrupted you in your happy retreat, but this reluctance has yielded to a sense of duty and to our conviction of your preferential love of country.

"It is not improbable, but that concerns of the highest national magnitude may engage the attention of the Senate before the meeting of Congress.

"In this event we particularly wish the aid of

[1] Writings of Washington, x., 428.

your council, and flatter ourselves that, should you consider it inconvenient hereafter to continue in the station to which you are called, you will nevertheless hold the same for the present.

"I have the honor to be, Sir, with sentiments of most perfect respect & regard,

"Your friend & H^ble^ Servt

"HENRY LEE.

"P. HENRY, ESQ."

Mr. Henry declined this appointment in the following letter:

"LONG ISLAND, July 14th, 1794.

"SIR: Last night I was honor'd by the Receipt of your Excellency's Despatch by the Express, with your appointment to a seat in the Senate of the United States, vacated by the Resignation of Mr. Monroe.

"It gives me great pain to declare that existing circumstances compel me to decline this appointment, so honorable at all Times, but rendered more particularly so by the manner in which you are pleased to communicate it to me. I should be greatly wanting on this occasion if I failed to express the highest sense of this unmerited Honor; & I am comforted by a Reliance, that the same goodness that dictated the appointment, will admit my apology for declining it, as arising from my Time of life—combined with the great Distance to Philadelphia.

"I want Words to express my gratitude for the favorable Sentiments you are. pleased to entertain for me; & I have only to regret the want of ability for those Exertions which the arduous situation of affairs calls for.

"In my Retirement I shall not cease to pray for the prosperity of our united country, & to retain

the highly pleasing impression which your Excellency's Goodness gives me, & shall rejoice in every opportunity to testify how much I ever am, Sir,

"Your Excellency's most obedient
"and obliged h'ble Servant,
"P. HENRY.

"His Excelʸ Govʳ LEE."

Washington now offered him the mission to Spain, intended to secure the free navigation of the Mississippi. This was a tribute not only to Mr. Henry's abilities, but to his superior statesmanship, which had so early recognized and so persistently urged the importance to the United States of this river, and the right to its free navigation. No appointment could have been more gratifying to him. But the consciousness of failing health, and the necessity of putting his affairs in order, constrained him to reply in the following letter:

"CAMPBELL COUNTY in VIRGᵃ Sept. 14th, 1794.

"SIR: I was this day honored by the receipt of your favor signifying the wish of the president of the United States that I should act in the character of envoy extraordinary to the Court of Madrid on the business of the Mississippi Navigation.

"And altho' it would be highly gratifying to me on all occasions to further the president's views, yet in this instance I am constrained from a variety of considerations to decline the appointment. The importance of the negotiation, & its probable length in a country so distant, are difficulties not easy to reconcile to one at my time of life.—But to these are added others which leave me no room to hesitate.

"Whilst I sincerely regret the causes which com-

pel me to decline the Honor intended me, I cannot forbear to express my highest obligations to the president for his favorable sentiments. And I beg of you sir, to be pleased to present me to him in terms of the most perfect respect and duty.

"I have the honor to be, sir,

"Your most obedient and very humble servant,

"P. HENRY.

"HONBLE ED[d] RANDOLPH,

"*Secretary of State.*"

Thomas Pinckney was appointed in Mr. Henry's stead, and concluded a treaty in which the claims of the United States as to boundary and the free navigation of the Mississippi were fully conceded.[1]

Before Governor Lee communicated to Mr. Henry the contents of General Washington's letter of August 26, the contest between the political parties had become very heated, and each deemed it of great importance to secure the weight of Mr. Henry's name. Mr. Jefferson, who was the acknowledged leader of the Republican party, had never been on cordial terms with him since 1781, when, with Mr. Nicholas, Mr. Henry urged an inquiry into his conduct as governor. He knew too that Mr. Henry disapproved of the French infidelity which, it was reported, he had brought back from France. It had been told him also that his French cookery at Monticello had excited Mr. Henry's keen humor, and that he had been heard to say that he "did not approve of gentlemen abjuring their native victuals."[2] The first step therefore was to regain Mr. Henry's personal friendship. Accordingly Mr. Jefferson

[1] Marshall's Washington, v., 541.

[2] Randall's Jefferson, iii., 508.

wrote, April 18, 1795, from Monticello concerning him, to Archibald Stuart, their mutual friend:

"With respect to the gentleman we expected to meet there (Bedford Court), satisfy him, if you please, that there is no remains of disagreeable sentiment towards him on my part. I was once sincerely affectioned towards him, and it accords with my philosophy to encourage the tranquillizing passions." [1]

Of the result of this message we have no information. That Mr. Henry, if he received it, responded as became a Christian gentleman, cannot be doubted, but no arts of Mr. Jefferson, or of his followers, could blind him to the wickedness of the French Revolution, or to the tendency to anarchy which its doctrines were developing in the United States.

When therefore Governor Lee sent him the portion of Washington's letter relating to him, it called forth the following noble reply:

"RED HILL, June 27, 1795.

"MY DEAR SIR: Your very friendly communication of so much of the President's letter as relates to me, demands my sincere thanks. Retired as I am from the busy world, it is still grateful to me to know that some portion of regard remains for me amongst my countrymen; especially those of them whose opinions I most value. But the esteem of that personage, who is contemplated in this correspondence, is highly flattering indeed. The American revolution was the grand operation, which seemed to be assigned by the Deity to the men of

[1] MS. in possession of Honorable A. H. H. Stuart, son of Judge Archibald Stuart.

this age in our country, over and above the common duties of life. I ever prized at a high rate the superior privilege of being one in that chosen age, to which providence entrusted its favorite work. With this impression, it was impossible for me to resist the impulse I felt to contribute my mite toward accomplishing that event, which in future will give a superior aspect to the men of these times. To the man especially, who led our armies will that aspect belong; and it is not in nature for one with my feelings to revere the revolution without including him who stood foremost in its establishment.

"Every insinuation that taught me to believe I had forfeited the good will of that personage, to whom the world had agreed to ascribe the appellation of good and great, must needs give me pain; particularly as he had opportunities of knowing my character both in public and private life. The intimation now given me, that there was no ground to believe I had incurred his censure, gives very great pleasure.

"Since the adoption of the present constitution I have generally moved in a narrow circle. But in that I have never omitted to inculcate a strict adherence to the principles of it. And I have the satisfaction to think that in no part of the union have the laws been more pointedly obeyed, than in that where I have resided and spent my time. Projects, indeed, of a contrary tendency have been hinted to me; but the treatment of the projectors has been such as to prevent all intercourse with them for a long time. Although a democrat myself, I like not the late Democratic Societies. As little do I like their suppression by law. Silly things may amuse for a while, but in a little time men will perceive their delusions. The way to preserve in men's minds a value for them, is to enact laws against them.

"My present views are to spend my days in pri-

vacy. If, however, it shall please God during my life, so to order the course of events as to render my feeble efforts necessary for the safety of the country, in any, even the smallest degree, that little which I can do shall be done. Whenever you may have an opportunity, I shall be much obliged by your presenting my best respects and duty to the President, assuring him of my gratitude for his favorable sentiments towards me.

"Be assured, my dear Sir, of the esteem and regard with which I am yours, &c.,

"PATRICK HENRY.

"To GOVERNOR HENRY LEE."

This letter Governor Lee sent to the President with the following from himself:

"ALEXANDRIA, 17 July, 1795.

"MY DEAR SIR: It was a long time before I had an opportunity of making known to Mr. Henry the purport of that part of your letter to me which concerns him. But very lately have I received his reply, which I beg leave to inclose for your perusal.

"I am very confident that Mr. Henry possesses the highest and truest regard for you, and that he continues friendly to the general government, notwithstanding the unwearied efforts applied for the end of uniting him to the opposition; and I must think he would be an important official acquisition to the government.

"I hear you will be at home in the course of next week, and would with great pleasure wait and see you, if I could possibly do so. Before your return I certainly will do myself that honor, in the mean time I beg your acceptance of my best wishes, and I remain, with unalterable respect and regard,

"your obedient servant,

"HENRY LEE.

"To the PRESIDENT OF THE U. S."

It was not long before a way was opened for Washington to invite Mr. Henry to a seat in his Cabinet. An intercepted letter of Fauchet, the successor of Genet, which, as translated to Washington, raised a suspicion of the integrity and fidelity of Edmund Randolph, the Secretary of State, caused the resignation of that officer, August 19, 1795.[1] During the same month Mr. Bradford, the Attorney-General, died. Washington had great difficulty in filling these responsible offices with men of first-rate abilities, and the increasing difficulties of his administration required the aid of such. He desired to call Mr. Henry to the position of Secretary of State at once, but being in doubt as to his willingness to accept it, and fearing he might be suspected of trying to buy his support by the offer, he tendered the place to Judge Patterson, Mr. Johnson, of Maryland, and Charles Cotesworth Pinckney, of South Carolina, successively, who all declined it. He tendered the position of Attorney-General to John Marshall, who also declined, and then his desire was to offer it to Colonel Innes, of whose fitness however he was not fully assured.

His difficulty about Mr. Henry was somewhat removed by a conversation with General Henry Lee, who had seen a good deal of him in some business transactions, and who believed that Mr. Henry was so aroused to the danger now threatening the country that he would not refuse to obey Washington's call to his Cabinet. Two Cabinet officers could not be properly selected from Virginia, and already General Edward Carrington had been written to confidentially in reference to Colonel Innes, and had

[1] See vindication of Mr. Randolph in his Life by Moncure D. Conway.

promised to make the necessary inquiries concerning him.

In this situation of affairs Washington wrote an offer to Mr. Henry of the Secretaryship of State, and enclosed it to General Carrington with the following letter:

(Private and Confidential.)

"MOUNT VERNON, 9 October, 1795.

"Your letter of the 2d instant came duly to hand, and I shall wait the result of the proposed inquiries.

"One request frequently begets another, and that is the case at present. You know full well that the office of state is vacant, but you may not know that I find difficulty in filling it. In the appointments to the great offices of the government, my aim has been to combine geographical situation, and sometimes other considerations, with abilities and fitness of *known* characters. In pursuance of this system, I have tried to bring Judge Patterson, Mr. Johnson, of Maryland, and Charles Cotesworth Pinckney, of South Carolina into this office, but they have all declined; the last by the post of Wednesday. I would have made an offer of it to Mr. Henry in the first instance, but two reasons were opposed to it; first ignorance of his political sentiments, for I should consider it an act of governmental suicide to bring a man into so high an office who was unfriendly to the constitution and laws, which are to be his guide; and, secondly, because I had no idea that he would accept the office, until General (late Governor) Lee gave some reasons which have induced me in a degree to draw a different conclusion, he having assured me at the same time, that he believed Mr. Henry's sentiments relative to the con-

stitution were changed, and that his opinion of the government was friendly. Of these matters, however, so important in their nature, I wish to learn the opinion of others. And of whom can I inquire, more likely to know than yourself? Let me then come to the point. If in the opinion of yourself and General Marshall, Colonel Innes is a fit character to be the Attorney-General of the United States, will accept the office, and enter upon the duties of it without delay, no application is to be made to Mr. Henry, be his sentiments what they may. If on the contrary, that event does not take place, I impose upon you the task, and pray you to have the goodness to forward the enclosed letter to him by express (the cost of which I will pay), provided you accord in sentiment with General Lee, with respect to the political opinions of that gentleman, and have reason to believe that he has expressed no opinions adverse to the treaty with Great Britain, but is disposed to the adoption of it; for otherwise, it would place both him and me in embarrassed situations.

"From the instances which have fallen within your own knowledge, you can form some idea of the difficulties I experience in finding out, and prevailing upon, fit characters to fill offices of importance. In the case before us, I am sensible that I am imposing a delicate task upon you; but from the peculiar circumstances thereof, it is in some measure a necessary one; and, having a high opinion of General Marshall's honor, prudence, and judgment, I consent to your consulting him on this occasion, as you did in the case of Colonel Innes.

"I have, I must confess, but little expectation that Mr. Henry will accept the offer of it, if it gets to him, and therefore I must look forward to the consequence of his refusal. Let me ask, therefore, if another trial should be made, and a refusal ensue,

and ultimately it should be found eligible to remove the present Secretary of War to the office of State, if it should be agreeable to himself, would you fill his place as Secretary of War?

"You will, my dear Sir, perceive, that the whole of this letter is perfectly confidential, written perhaps with more candor than prudence; but I rely on your goodness and prudence to appreciate my motives. My letter to Mr. Henry is left open for your perusal, that the whole may be before you. If it goes forward, seal it; if not, return it to, dear Sir, your friend, &c.,

"GEO. WASHINGTON."[1]

Upon consultation with General Marshall, General Carrington agreed with him that the letter to Mr. Henry should be forwarded at once, and before any communication with Colonel Innes.[2] It was as follows:

"MOUNT VERNON, October 9, 1795.

"DEAR SIR: Whatever may be the reception of this letter, truth and candor shall mark its steps. You doubtless know that the office of state is vacant; and no one can be more sensible, than yourself, of the importance of filling it with a person of abilities, and one in whom the public would have confidence. It would be uncandid not to inform you that this office has been offered to others; but it is as true, that it was from a conviction in my own mind, that you would not accept it (until Tuesday last, in a conversation with General Lee, he dropped sentiments which made it less doubtful), that it was not offered first to you.

[1] Writings of Washington, xi., 78.

[2] The letter of Edward Carrington to Washington in reply is given by Sparks, xi., 80, and is of great interest as showing the importance attached to Mr. Henry's support of the Administration.

"I need scarcely add, that if this appointment could be made to comport with your own inclination, it would be as pleasing to me, as I believe it would be acceptable to the public. With this assurance, and with this belief, I make you the offer of it. My first wish is, that you would accept it; the next is, that you would be so good as to give me an answer as soon as you conveniently can, as the public business in that department is now suffering for want of a Secretary.

"I persuade myself, Sir, it has not escaped your observation, that a crisis is approaching, that must, if it cannot be arrested, soon decide whether order and good government shall be preserved, or anarchy and confusion ensue. I can most religiously aver I have no wish that is incompatible with the dignity, happiness, and true interest of the people of this country. My ardent desire is, and my aim has been, as far as depended upon the executive department, to comply strictly with all our engagements, foreign and domestic; but to keep the United States free from political connections with every other country, to see them independent of all and under the influence of none. In a word, I want an *American* character, that the powers of Europe may be convinced we act for *ourselves*, and not for others. This in my judgment is the only way to be respected abroad and happy at home; and not by becoming the partisans of Great Britain or France, create dissensions, disturb the public tranquillity, and destroy, perhaps forever, the cement which binds the union.

"I am satisfied these sentiments cannot be otherwise than congenial to your own. Your aid therefore in carrying them into effect would be flattering and pleasing to, dear Sir, &c.,

"GEO. WASHINGTON.

"TO PATRICK HENRY, ESQ."

To this letter Mr. Henry at once replied as follows:[1]

"LONG ISLAND, CAMPBELL COUNTY, October 16th, 1795.

"HONORED SIR: Your favor of the 9th Ins^{t}. is at this moment brought to me by an express from Richmond. The contents of it make a deep impression on my mind. To disobey the call of my Country into Service when her venerable chief makes the demand of it must be a crime, unless the most substantial reasons justify declining it, and I must trust in your goodness and candor to excuse me for not accepting the appointment you are pleased to offer me. My domestic situation pleads strongly against a removal to Philadelphia, having no less than eight children by my present marriage, and Mrs. Henry's situation now forbidding her approach to the small pox, which neither herself nor any of our Family ever had. To this may be added other considerations arising from loss of Crops and consequent derangement of my Finances—and what is of decisive weight with me, my own health and strength I believe are unequal to the dutys of the station you are pleased to offer me. This detail, composed so much of particulars uninteresting to the public, I am emboldened to lay before you, from the very friendly and unreserved sentiments you are pleased to express towards me. Permit me to add, that having devoted many years of the prime of my life to the public service and thereby injured my circumstances, I have been obliged to resume my profession and go again to the Bar, at a time of life too advanced to support the fatigues of it. By this means my health has been injured. When these things are considered, may I hope for your favorable judgement on the motives by which I am actuated? Believe me, Sir, I have bid adieu to the dis-

[1] A copy of this reply is found among his papers, though the letter is not with the Washington papers, according to Sparks.

tinction of federal and antifederal ever since the commencement of the present government, and in the circle of my friends have often expressed my fears of disunion amongst the States from collision of interests, but especially from the baneful effects of faction. The most I can say is, that if my Country is destined in my day to encounter the horrors of anarchy, every power of mind or body which I possess will be exerted in support of the government under which I live, and which has been fairly sanctioned by my countrymen. I should be unworthy the character of a republican or an honest man, if I withheld from the government my best and most zealous efforts because in its adoption I opposed it in its unamended form. And I do most cordially execrate the conduct of those men who lose sight of the public interest from personal motives. It is with painful regret that I perceive any occurrences of late have given you uneasiness. Indeed, Sir, I did hope and pray that it might be your lot to feel as small a portion of that, as the most favored condition of humanity can experience — and if it eventually comes to pass that evil instead of good grows out of the public measures you may adopt, I confide that our Country will not so far depart from her character as to judge from the events, but give full credit to the motives, and decide from these alone. Forgive, Sir, these effusions, and permit me to add to them one more, which is an ardent wish that the best rewards which are due to a well spent life may be yours. With the most sincere esteem and high regard I ever am, dear Sir, your much obliged and very humble servant,

"P. HENRY.

"To the PRESIDENT OF THE UNITED STATES."

The delicate allusion to the British treaty in Mr. Henry's letter was recognized at once by General

Carrington, who in transmitting the reply, wrote for himself and John Marshall:

"It gives us pleasure to find that, though Mr. Henry is rather to be understood as probably not an approver of the treaty, his conduct and sentiments generally, both as to government and yourself, are such as we calculated on, and that he received your letter with impressions which assure us of his discountenancing calumny and disorder of every description."[1]

As John Marshall was prominent in this offer to Mr. Henry, it is interesting to note his account of it in his "Life of Washington." Speaking of the vacancy created by the resignation of Edmund Randolph he says:

"This place was offered to Mr. Henry, a gentleman of eminent talents, great influence, and most commanding eloquence. He had led the opposition to the constitution in Virginia, but after its adoption his hostility had in some measure subsided. He was truly the personal friend of the president, and had lately manifested a temper not inimical to the administration. The chief magistrate was anxious to engage him in the public service, but was aware of the embarrassments which must result from placing in so confidential a station a person whose opinions might lead him to thwart every measure of the executive. It was therefore necessary to come to some explanation with Mr. Henry on this subject, and the letter which invited him into the department of State, opened the way for this explanation by stating truly the views and character of the administration."[2]

[1] Writings of Washington, xi., 83. [2] Note xviii., vol. v.

Before this offer General Lee had attempted to draw from Mr. Henry a promise to enter the service of the Administration, and had suggested the probability of a call to the office of Chief Justice, as it was believed that the Senate would refuse to confirm the nomination of John Rutledge to that high office, made vacant by the resignation of John Jay. Rutledge had taken part in a public meeting in Charleston which had denounced the British treaty, and had thus offended the Federalists of the Senate. General Lee thereupon wrote Mr. Henry:

"Sepr 30th, 1795.

"DEAR SIR:

"I set out in a few days for Phila. where I wish to do whatever I can for you. If you have any business write to me by post. The political fever has much abated, the people everywhere begin to understand the views of faction and obey their government. What a happy crisis for you to come forward. Certain I am that you would have been long ago called to high office, if men pretending to know your sentiments and wishing to withhold your weight from administration, had not constantly declared your unwillingness to accept.

"Pray tell me as your friend, whether I may contradict, if I find a proper occasion, this opinion where the contradiction may lead to serve you.

"I think Mr. Rutledge's late appointment will probably be dissented to on the part of the Senate.

"That office exactly suits you, and I always wished to see you fill it. Be unreserved and decided in your reply—I will instantly commit the let^{r} to flames, & use its purport only for your favor and the public good. God bless you.

"Yours ever,

"H. LEE.[1]

"TO PATRICK HENRY, ESQ."

[1] MS.

Mr. Henry was unwilling to commit himself in reference to an office not yet tendered him, and in the meantime the rumor of his declining the Secretaryship of State had gone abroad and given rise to false impressions. On December 17, 1795, General Lee wrote him from Richmond:

"My Dear Sir:

"I found here your answer to my last two letters, but have never till now found an opportunity of writing to you.

. . . . . .

"Many things are said by your intimate acquaintances which very much hurt my feelings, and do no honor to your character. They tend to represent you as an enemy to the G. Gov^{t} and its administration, and indifferent to the President, to say the least.

"One falsehood among others of this sort is, that in your answer to him about the State department you advised him to return home, as a man of sixty-four was unfit for the duties of his arduous station. A letter from you on this subject fit for the press I would, with your leave, publish to do away these untruths.

"You never have told me what you would do if a vacancy in the Chief Justice's place should happen, and I really hoped you would have expressed to me unequivocally your mind, as I should have only used it for your own and the public good.

"Yours always & aff'y,

"H. Lee."[1]

At the time this letter was written the Senate had actually refused to confirm Rutledge's appointment, and that bright intellect had suffered an

[1] MS.

eclipse during a spell of sickness which rendered the short remnant of his life a blank.

Upon his rejection by the Senate, the President desired General Lee to tender the office to Mr. Henry, if he found him willing to accept it. Thereupon General Lee wrote him as follows:

"December 26, 1795.

"My Dear Sir: I wrote to you the other day by Mr. Call—To this letter no reply. Since which I have heard from Mr. Kelly at New York.

"The land-jobbers have given him much trouble—they have taken up the land you and he own, and he is put to vast expense in resurveying it—this business really requires us to meet—I wish you would ride here.

"Essential as I deem this communication to be, I should not have sent purposely to you, was it not necessary for me to know your mind on a confidential subject.

"The Senate have disagreed to the President's nomination of Mr. Rutledge, and a vacancy in that important office has taken place—For your country's sake, for your friends' sake, for your family's sake, tell me you will obey a call to it.

"You know my friendship for you, you know my circumspection, and I trust you know too that I would not address you on such a subject without good grounds.

"Surely no situation better suits an individual than that will you—you continue at home only[1] when on duty—change of air and exercise will add to your days.

"The salary excellent and the honor very great. Be explicit in your reply. Your most obt Sevt.

"H. Lee.

"Patrick Henry, Esq., *Long Island.*"

[1] Except.

On the same day General Lee wrote to the President, informing him of his letter to Mr. Henry; and after waiting for two weeks, Washington wrote as follows, to learn the result.

"Jan'y 11th, 1796.

"My dear Sir: Your letter of the 26th ult. has been received, but nothing from you since; which is embarrassing in the extreme; for not only the nomination of Chief Justice, but an associate Judge and Secretary of War, is suspended on the answer you were to receive from Mr. Henry; and what renders the want of it more to be regretted is, that the first Monday of next month (which happens on the first day of it) is the term appointed by law for the meeting of the Superior Court of the United States, in this city; at which, for particular reasons the bench ought to be full. I will add no more at present than that I am your affectionate

"Geo. Washington.

"To Genl. Henry Lee."[1]

No letter of Mr. Henry to General Lee in reply to the communication of December 26, is known to exist, and as Mr. Henry was urged in it to come to Richmond to attend to other business of importance, it is probable that he did so and declined verbally the honor offered him through General Lee.

As the effort has been made to depreciate Mr. Henry's learning as a lawyer, we can but be struck with this overwhelming proof of his high standing in his profession. The design of Washington to place him in the Supreme Court, indicated by his correspondence with Henry Lee as having been formed in the winter of 1792–3, and the final offer

[1] Observations on the Writings of Thos. Jefferson by Henry Lee, p. 116.

to Mr. Henry of the position of Chief Justice in the winter of 1795–6, are sufficient to establish the fact that he had won a position in the foremost rank of his profession as a lawyer, as well as an advocate.

This reply of Mr. Henry prevented, a little later, another expression of confidence in Mr. Henry's character and of appreciation of his capacity in the field of negotiation, by Washington. He had determined to recall Colonel Monroe from France, and he would have nominated Mr. Henry as his successor at that court, but for the fact that he knew he would not accept the position. This appears in his letter to Timothy Pickering, Secretary of State, July 8, 1796.[1]

[1] Writings of Washington, xi., 141.

CHAPTER XLIII

KENTUCKY AND VIRGINIA RESOLUTIONS OF 1798.—1796-98.

Republican Attacks upon Washington.—Forged Letters.—Betrayal of a Cabinet Paper.—Letter of Mr. Henry to Mrs. Aylett.—Mr. Jefferson's Misrepresentation of Washington and Henry.—Mr. Henry Elected Governor the Sixth Time.—Letter Declining the Office.—His Political Consistency.—Religious Character.—Predicts Result of the French Revolution.—John Adams Elected President.—Relations to Jefferson.—Letter of Jefferson to Philip Mazzei.—Irritating Policy of France.—Failure of the Mission of Pinckney, Marshall, and Gerry.—Preparations for War.—Alien and Sedition laws.—Kentucky and Virginia Resolutions.—Mr. Henry Disapproves of Them.—Advocates the Election of John Marshall and Henry Lee to Congress.—Letter to Archibald Blair.

THE effort of the Republican majority in the House of Representatives, in 1796, to prevent Jay's treaty from being carried into effect, was a fair indication of the temper of that party. Attaching to Washington the blame for the execution of the treaty, he was openly and bitterly attacked in Republican papers, and charged with insincerity in his professed friendliness to France in her struggle for republican government. As evidence of Washington's perfidy a batch of forged letters, purporting to have been written by him in 1776, were republished. These, which were first published in 1777, were designed to break down his influence in the revolutionary contest, by attributing to him political sentiments favorable to Great Britain, and jealousies of

his fellow-patriots. They were skilfully interspersed with domestic incidents which gave them a semblance of truth, but the forgery was shown in the effort of the author to account for their possession, in which he stated what was known to be false. One of these letters, dated July 22, 1776, and addressed to Lund Washington, the manager at Mount Vernon, contained severe reflections upon Mr. Henry. On leaving the Presidency Washington made a list of them and asked that his denial of their authorship be preserved in the State department.[1]

Another publication by his enemies gave him great annoyance, as it showed that some member of his Cabinet had betrayed State secrets. This was the paper in the shape of queries, addressed to the several members of his Cabinet, asking their advice as to the proper conduct of the Administration on the breaking out of the war between France and England. This was claimed in the Republican press to be conclusive evidence of his unfriendliness to France. Mr. Jefferson, upon seeing the paper in print, in order to clear his skirts, wrote to Washington, declaring in the most solemn manner that it had not been divulged by him. Washington's reply indicates his sensitiveness under the indecent attacks made upon him. He complains that

"While I was using my utmost exertions to establish a national character of our own, independent as far as our obligations and justice would permit, of every nation on earth; and wished by steering a

[1] Writings of Washington, xi., 192. These letters have been lately republished as spurious by Worthington C. Ford.

steady course to preserve this country from the horrors of a desolating war, I should be accused of being the enemy of one nation and subject to the influence of another; and to prove it, that every act of my administration should be tortured, and the grossest and most insidious misrepresentations of them be made, by giving one side only of a subject, and that too in such exaggerated and indecent terms as could scarcely be applied to a Nero—to a notorious defaulter—or even to a common pickpocket."[1]

This abuse of Washington was most painful to Mr. Henry, and he did not hesitate to express his condemnation of it, and of the action of Mr. Madison and the other Republican leaders in attempting to defeat through the House of Representatives the treaty already ratified by the United States and Great Britain.

His conversation, while on a visit to Richmond in the summer of 1796, was seized upon as evidence of a change in his political sentiments, and was colored to suit party purposes. This was reported to him by his daughter, Mrs. Aylett, and it called forth the following interesting and beautiful letter to her:

"RED HILL, August 20th, 1796.

"MY DEAR BETSY: Mr. William Aylett's arrival here, with your letter, gave me the pleasure of hearing of your welfare, and to hear of that is highly gratifying to me, as I so seldom see you." [The rest of this paragraph relates to family affairs.]

"As to the reports you have heard of my changing sides in politics, I can only say they are not true. I am too old to exchange my former opinions, which have grown up into fixed habits of

[1] Writings of Washington, xi., 139.

thinking. True it is, I have condemned the conduct of our members in congress, because, in refusing to raise money for the purposes of the British treaty, they, in effect, would have surrendered our country bound, hand and foot, to the power of the British nation. This must have been the consequence, I think; but the reasons for thinking so are too tedious to trouble you with. The treaty is, in my opinion, a very bad one indeed. But what must I think of those men, whom I myself warned of the danger of giving the power of making laws by means of treaty, to the president and senate, when I see these same men denying the existence of that power, which they insisted, in our convention, ought properly to be exercised by the president and senate, and by none other? The policy of these men, both then and now, appears to me quite void of wisdom and foresight. These sentiments I did mention in conversation in Richmond, and perhaps others which I don't remember; but sure I am, my first principle is, that from the British we have everything to dread, when opportunities of oppressing us shall offer. It seems that every word was watched which I casually dropped, and wrested to answer party views. Who can have been so meanly employed, I know not—nor do I care; for I no longer consider myself as an actor on the stage of public life. It is time for me to retire; and I shall never more appear in a public character, unless some unlooked-for circumstance shall demand from me a transient effort, not inconsistent with private life—in which I have determined to continue. I see with concern our old commander-in-chief most abusively treated—nor are his long and great services remembered, as any apology for his mistakes in an office to which he was totally unaccustomed. If he, whose character as our leader during the whole war was above all praise, is so roughly handled in his

old age, what may be expected by men of the common standard of character? I ever wished he might keep himself clear of the office he bears, and its attendant difficulties—but I am sorry to see the gross abuse which is published of him. Thus, my dear daughter, have I pestered you with a long letter on politics, which is a subject little interesting to you, except as it may involve my reputation. I have long learned the little value which is to be placed on popularity, acquired by any other way than virtue; I have also learned, that it is often attained by other means—The view which the rising greatness of our country presents to my eye is greatly tarnished by the general prevalence of deism; which with me, is but another name for vice and depravity. I am, however, much consoled by reflecting, that the religion of Christ has, from its first appearance in the world, been attacked in vain by all the wits, philosophers, and wise ones aided by every power of man, and its triumph has been complete. What is there in the wit or wisdom of the present deistical writers or professors, that can compare them with Hume, Shaftsbury, Bolingbroke, and others? And yet these have been confuted, and their fame decaying; insomuch that the puny efforts of Paine are thrown in to prop their tottering fabric, whose foundations cannot stand the test of time. Amongst other strange things said of me, I hear it is said by the deists that I am one of their number; and indeed, that some good people think I am no Christian. This thought gives me much more pain than the appellation of tory; because I think religion of infinitely higher importance than politics; and I find much cause to reproach myself that I have lived so long and have given no decided proofs of my being a Christian. But, indeed, my dear child, this is a character I prize far above all this world has or can boast. And amongst all the hand-

some things I hear said of you, what gives me the greatest pleasure is to be told of your piety and steady virtue. Be assured there is not one tittle, as to disposition or character, in which my parental affection for you would suffer a wish for your changing; and it flatters my pride to have you spoken of as you are.

"Perhaps Mr. Roane and Anne may have heard the reports you mention. If it will be any object with them to see what I write, show them this. But my wish is to pass the rest of my days as much as may be, unobserved by the critics of the world, who show but little sympathy for the deficiencies to which old age is so liable. May God bless you, my dear Betsy, and your children. Give my love to Mr. Aylett, and believe me ever

"Your affectionate father,

"P. HENRY."

Washington, who had very unwillingly served a second term, now positively declined to allow his name to be used in the approaching presidential election. He made his determination known in his celebrated farewell address to his countrymen, in which he pointed out in the clearest terms the dangers to the Union, and to our republican institutions, threatened by sectional strife and factious party spirit, dangers which have been so sadly realized since.

The Federal party now presented John Adams as their candidate for the Presidency, and there was a disposition to present the name of Mr. Henry for the Vice-Presidency,[1] but he had taken no part in politics since 1791, and the party was not assured of his sympathy. It is very certain that he was

[1] Gibbs's Washington and Adams, i., 337.

unwilling that his name should be used in connection with the office, by either party. After the presidential electors had been chosen he was informed that Levin Powell, Charles Simons, and others of the Electoral College, professed a willingness to vote for him as President, but not for Jefferson, and he declined the honor by a short notification in the *Gazette*.[1]

Mr. Jefferson had been hoping to add the weight of Mr. Henry's name to the Republican measures of the day, and was solicitous as to the effect of the offers of Federal office made him. We find him writing to Colonel Monroe, July 10, 1796:

"Most assiduous court is paid to Patrick Henry. He has been offered every thing which they knew he would not accept. Some impression is thought to be made on him, but we do not believe it is radical.

"If they thought they could count on him they would run him for their vice-president, their firm object being to produce a schism in this State."[2]

The fling at Washington contained in the above, was afterward put into an indecent charge, when, after Mr. Henry's death, Mr. Jefferson sought to prejudice the mind of his biographer. He wrote to Mr. Wirt:

"General Washington flattered him by an appointment to a mission to Spain, which he declined; and by proposing to him the office of Secretary of State, on the most earnest solicitation of General

[1] Judge Roane in MS. letter to Mr. Wirt.
[2] Jefferson's Works, iv., 148.

Henry Lee, who pledged himself that Henry should not accept it; for General Washington knew that he was entirely unqualified for it, and moreover that his self-esteem had never suffered him to act as second to any man on earth. I had this fact from information, but the mission to Spain is of my own knowledge, because after my retiring from office as Secretary of State, General Washington passed the papers to Mr. Henry through my hands."[1]

The reader is fully prepared to brand these statements derogatory to both Washington and Henry as false, not only from their well-established characters, but from their correspondence which has been given. It is curious that Mr. Jefferson, while falsely charging Mr. Henry with over-weening self-esteem, convicts himself of this weakness, by pronouncing Mr. Henry entirely unqualified for an office which he, Mr. Jefferson, had filled for years.

But all the offers of office were not made to Mr. Henry by the Federal Administration. The Legislature of Virginia, which met in the fall of 1796, and which was strongly Republican,[2] and devoted to Jefferson as their candidate for the Presidency, elected Mr. Henry Governor of the State. This made his sixth election to that high office. He declined in the following letter:

"CHARLOTTE COUNTY, November 29th, 1796.

"SIR: I have just received the honour of yours, informing me of my appointment to the chief magistracy of the commonwealth. I have to beg the favour of you, Sir, to convey to the General Assembly my best acknowledgments, and warmest grati-

[1] Letter to Mr. Wirt, Historical Magazine for August, 1867, 93.
[2] Randall's Jefferson, ii., 270.

tude for the signal honour they have conferred upon me. I should be happy if I could persuade myself that my abilities were commensurate to the duties of the office; but my declining years warn me of my inability.

"I beg leave, therefore, to decline the appointment, and to hope and trust that the General Assembly will be pleased to excuse me for doing so; as no doubt can be entertained that many of my fellow-citizens possess the requisite abilities for this high trust.

"With the highest regard, I am,
"Sir, Your most obedient servant,
"P. HENRY.

"To the HONORABLE SPEAKER OF THE HOUSE OF DELEGATES."

The Legislature thereupon elected James Wood Governor.

As it was charged afterward by Mr. Jefferson that Mr. Henry changed his political views, the following statement by Judge Roane, a warm Republican, will be interesting. He wrote to Mr. Wirt:

"With respect to the alledged change of his political principles, I shall say what I know about it. When I was last with him in October, 1794, there was no difference between his opinions and mine that I could discover. I was extremely well pleased with all his opinions, which he communicated freely. He had, after the adoption of the Constitution, taken the anti-federal side in the Assembly on all occasions —After this, matters seeming to come to extremity in relation to our foreign affairs, I understood, for I never again saw him, that he disapproved the policy of embarking in the cause of France and running the risk of a war with Britain. Possibly his sagacious mind foresaw the issue of the French

Revolution, and dreaded the effect of a war with England upon our free government, and upon the finances of the United States. After it began to be rumored that he had changed his opinions, he wrote me several letters alluding to the report, and averring that his opinions were not changed, and that he was too old to change them, but admitting that he differed from the republican leaders as to some of their measures, which he considered unwise and impolitic. . . . The alledged change must, I presume, have been subsequent to the fall of 1796, for in that session he was elected governor for the third time,[1] with a view to keep out General Wood, who was deemed a federalist. Mr. Henry was voted for zealously by all the republicans."

It will be seen from Mr. Henry's letter to Mrs. Aylett, August 20, 1796, that his religious convictions had very much deepened, and that he reproached himself for not having previously given "decided and public proofs of being a Christian." After this he partook of the Communion whenever opportunity offered, but he never seems to have formally connected himself with any church other than the Protestant Episcopal, in which he had been baptized in infancy. He approached the Communion-table with the greatest reverence, after having prepared himself by fasting, and spent the day in retirement.[2]

So impressed was he with the injury the current infidelity was inflicting on his country, that he wrote a reply to Paine's "Age of Reason," but destroyed it afterward on meeting with Bishop Watson's "Apology for the Bible," which he considered an abler reply than his own.[3]

[1] He means the 3d series of terms.

[2] Meade's Old Churches, etc., ii., 12.

[3] Idem.

With these deep religious convictions, and with his wonderful political sagacity, it is not surprising that Mr. Henry had no confidence in the establishment of free institutions in France upon a firm basis. He early foresaw the signal failure which awaited the Revolution, and looked for a military leader to come forward and establish a monarchy on the ruins of the republic. Such a leader he recognized when Bonaparte appeared. One of his contemporaries wrote to Mr. Wirt:

"Mr. Henry was once a firm advocate in favor of the French Revolution. . . . Subsequent events in France produced an entire change of sentiment upon this subject. In the year 1798, after Bonaparte had annihilated five Austrian armies, and, flushed with victory, was carrying everything before him, I heard Mr. Henry in a public company say, shaking his head, 'It won't all do! the present generation in France is so debased by a long despotism, they possess so few of the virtues that constitute the life and soul of republicanism, that they are incapable of forming a correct and just estimate of rational liberty. Their revolution will terminate differently from what you expect—their state of anarchy will be succeeded by despotism, and I should not be surprised if the very man, at whose victory you now rejoice, should, Cæsar-like, subvert the liberties of his country. All who know me,' continued Mr. Henry, 'know that I am a firm advocate for liberty and republicanism. I believe I have given some evidence of this. I wish it may not be so, but I am afraid the event will justify the prediction.'" [1]

The violence of the personal attacks upon Washington in the leading Republican papers, to which

[1] MS.

Thomas Paine was now one of the contributors, did much toward defeating that party in the Presidential election of 1796. To this was added, what seemed to have been decisive of the result, the indiscreet conduct of Adet, the new French Minister at Philadelphia. He not only openly advocated Mr. Jefferson's election, but published a threat of the wrath of the French Directory in case of his defeat.[1] Mr. Adams was elected by a vote of seventy-one to Mr. Jefferson's sixty-eight in the Electoral College, and as the Constitution then stood, this made Jefferson Vice-President.

At the beginning of his term there were overtures looking to a political combination between Adams and Jefferson, to which neither was averse,[2] but the scheme was soon abandoned, because Adams refused to give Madison office, as it was said; and they drifted very far apart. The publication at this time in American newspapers of a letter written by Mr. Jefferson to Philip Mazzei, April 24, 1796, was sufficient however of itself to change the relations of the writer with both Washington and Adams. He wrote to this friend, then in Florence, who imprudently gave it to the Florence press:

"The aspect of our politics has wonderfully changed since you left us. In place of that noble love of liberty and republican government which carried us triumphantly through the war, an Anglican, monarchical, and aristocratical party has sprung up, whose avowed object is to draw over us the substance, as they have already done the forms, of the British government. The main body of our citi-

[1] Gibbs's Washington and Adams, i., 380.

[2] Randall's Jefferson, ii., 317, etc.

zens, however, remains true to their republican principles: The whole landed interest is republican, and so is a great mass of talents. Against us are the executive, the judiciary, two out of three branches of the Legislature, all the officers of the Government, all who want to be officers, all timid men who prefer the calm of despotism to the boistrous sea of liberty, British merchants, and Americans trading on British capital, speculators, and holders in the banks and public funds—a contrivance invented for the purpose of corruption, and for assimilating us in all things to the rotten as well as the sound parts of the British model. It would give you a fever were I to name to you the apostates who have gone over to these heresies, men who were Samsons in the field and Solomons in the council, but who have had their heads shorn by the harlot England."[1]

As Washington was President, and Adams Vice-President at the date of this letter, their resentment of its charges, directly aimed at them, can be well appreciated.

The shock it gave to Washington can be imagined, when we read alongside of it an extract of the letter Mr. Jefferson addressed to him June 19, following the date of the Mazzei letter, in which, referring to Lee's communication as to the remarks of Jefferson concerning Hamilton's influence over Washington,[2] inclining him toward England, the writer said:

"I learn that this last (General Lee) has thought it worth his while to try to sow tares between you and me, by representing me as still engaged in the bustle of politics, and in turbulence and intrigue against the Government. I never believed for a

[1] Randall's Jefferson, ii., 295. [2] See ante, 540.

moment that this could make an impression on you, or that your knowledge of me would not outweigh the slander of an intriguer, dirtily employed in sifting the conversations of my table, where alone he could hear of me; seeking to atone for his sins against you, by sins against another, who had never done him any other injury than that of declining his confidences." [1]

To this Washington had generously replied, July 6, 1796:

"As you have mentioned the subject yourself, it would not be frank, candid, or friendly to conceal, that your conduct has been represented as derogating from that opinion I had conceived you entertained of me; that to your particular friends and connections you have denounced me as a person under dangerous influence; and that, if I would listen more to some other opinions, all would be well. My answer invariably has been, that I had never discovered anything in the conduct of Mr. Jefferson to raise suspicion in my mind of his sincerity; that, if he would retrace my public conduct while he was in the administration, abundant proofs would occur to him, that truth and right decisions were the sole objects of my pursuit; that there were as many instances within his own knowledge of my having decided against as in favor of the opinions of the person evidently alluded to; and moreover, that I was no believer in the infallibility of the politics or measures of any man living. In short, that I was no party man myself, and the first wish of my heart was, if parties did exist, to reconcile them." [2]

[1] Jefferson's Works, iv., 142.

[2] Writings of Washington, xi., 138. The personal relations of Washington toward Jefferson seem to have changed after the publication of the Mazzei letter.

It was not possible for the parties to have compromised their opinions in the heated condition of politics then existing. The Federalists charged the Republicans with encouraging, and thus producing, every aggression of the French; and the revolution in Saint Domingo under French influences, whereby the slaves were emancipated, and many of the whites were murdered and others driven out, was looked upon as a plain indication of what would happen in America if the French once obtained control of our politics. This fear of servile insurrection from French influence, was greatly increased by the conduct and language of the slaves in several counties and cities of Virginia.[1] These were openly charged to French influence. In the debates in the Virginia Assembly in 1798, George Keith Taylor, a prominent member, said: "Could the French wound us in any respect so vitally, as by arming the slave against his master? Attempts had already been made by French emigrants to excite our slaves to insurrection."[2]

Upon coming into office, Mr. Adams found the relations between the United States and France in a deplorable condition. By the treaty of 1778, France had agreed to the rule that free ships should make free goods, while England, which had always claimed the contrary rule, had it now accorded her by Jay's treaty. This put France under a serious disadvantage in her war with England, and Washington had intimated to Adet, that the United States were ready to change the treaty with France in that respect if desired.[3] But this intimation was

[1] Calendar of Virginia State Papers, for 1796, etc.
[2] Debates in House of Delegates, December 20, 1798.
[3] Marshall's Washington, v., 679.

not acted upon, and with the treaty still in force, and the American merchants relying upon its protection, the French Government began a systematic disregard of it, and a spoliation of American commerce, which became very damaging. Angered by the recall of Colonel Monroe, whose sympathies were so decidedly French, the Directory refused to receive his successor, General Charles Cotesworth Pinckney, and ordered him to leave France. This feeling of bitterness was increased by the election of Mr. Adams over Mr. Jefferson; and flushed with the news of one of Bonaparte's Italian victories, the Directory, on March 2, 1797, issued an order which was but little short of a proclamation of war. It declared that the treaty of 1778 with the United States had been modified by their treaty with Great Britain, and claimed the benefit of the provisions of this last for France. All English goods, and articles not sufficiently shown to be neutral, under American flags, were to be confiscated, and Americans holding commissions under the enemies of France were to be treated as pirates.[1]

It was plain that the long-continued irritating policy of France was now about to culminate in open hostilities. In order to prevent this, if possible, President Adams appointed three Ministers Extraordinary to France, General Pinckney, John Marshall, and Elbridge Gerry. These reached Paris in October, 1797. They found France flushed with the conquests of Bonaparte, and Talleyrand at the head of the Administration as Minister of Foreign Affairs. He had but lately resided in the United States, and was well aware of the division of par-

[1] Gibbs's Washington and Adams, i., 526–7.

ties there touching France. The American Ministers were denied a public audience, or formal recognition, and were approached by three persons in succession: M. Hottinguer, M. Bellamy, and M. Hauteval, who represented Talleyrand, and who insisted, as a preliminary to any negotiation, upon the payment of a *douceur* of £50,000 to the Directory and Ministers, and an agreement to make a large loan to the French Government. The immense power of France was set forth, her humiliation of Austria, and her certain conquest of Britain; and the fate of Venice was held up as a warning to America in case of war.

These degrading proposals were met by the positive refusal of the envoys to hold further intercourse with the persons making them. They were renewed unsuccessfully by Talleyrand himself in unofficial visits. Finally, the Minister despairing of affecting Pinckney and Marshall, who were considered members of the party unfriendly to France, ordered them to quit her borders. Gerry, however, the Republican member of the commission, was invited to remain, and resume the discussions which had been interrupted.[1]

The despatches containing an account of these events were laid before Congress, and the names of the agents of Talleyrand were disguised under the designations of X., Y. and Z., and this has given the name to the affair. Their publication excited the warmest indignation, and soon the cry was everywhere heard, "Millions for defence, not a cent for tribute." The Republican party was overwhelmed for the time, and Congress at once entered upon a

[1] Marshall's Washington, v., 741, etc.; Randall's Jefferson, ii., 385, etc.

preparation for war with France. A navy department was created, an increase in the navy and army ordered, and Washington was made Lieutenant-General, and Commander-in-Chief of the army. The treaty with France was declared abrogated by her conduct, and her armed vessels were made lawful prizes for American cruisers. A loan and increased taxation were also determined on.

Had Congress stopped with these measures, it would have been sustained by the warlike feeling which now pervaded the nation; but the Federal majority, with a singular lack of wisdom, marred their legislation with two other war measures, which became famous as the "alien and sedition laws," and finally proved the ruin of their party. By the alien laws, the President was authorized to order out of the country all such aliens as he should judge to be dangerous to the peace and safety of the United States; and in case of invasion, actual or threatened, all subjects of hostile powers, not naturalized, were liable to arrest and confinement, or deportation. By the sedition act fine and imprisonment were imposed for unlawful conspiracies to oppose the operations of the Government, and for counselling insurrections, riots, or unlawful combinations against its authority. Similar, but lighter, penalties were imposed for the publication of false, scandalous, and malicious writings against the Government, either house of Congress, or the President, with intent to bring them into contempt, stir up sedition, or aid or abet a foreign nation in hostile designs against the United States.[1]

[1] Gibbs's Washington and Adams, ii., 74, etc.; Randall's Jefferson, ii., 394, etc.

These laws were defended on the ground that the persistent and dangerous interference of France in American politics made them necessary, and that precedents were furnished by the States during the revolutionary war.[1] They were attacked on the ground that they were oppressive, and contrary to the constitutional provisions securing personal rights.[2] But though these measures were the chief objects of attack, the Republican party did not fail to contest every other measure designed as a preparation for a war with France. Despairing of success on the floor of Congress, Mr. Jefferson, the great leader of the Republican party, determined to influence that body through the State Legislatures. Accordingly he either drew,[3] or revised,[4] the resolutions which were afterward offered in the Kentucky Legislature, and which were adopted by that body in November, 1798. The first of these is as follows:

"*Resolved*, That the several States composing the United States of America, are not united on the principle of unlimited submission to their general government; but that, by a compact under the style and title of a Constitution for the United States, and of amendments thereto, they constituted a general government for special purposes—delegated to that government certain definite powers, reserving, each State to itself, the residuary mass of right to their own self-government; and that whensoever the general government assumes undelegated powers

[1] Gibbs's Washington and Adams, ii., 84–85. Jefferson had approved of the Virginia acts.

[2] Idem, 80, etc.

[3] Letter of Jefferson, December 11, 1821, Works, vii., 229.

[4] It is claimed on strong evidence that John Breckenridge wrote the original draft, and submitted it to Mr. Jefferson, notwithstanding Mr. Jefferson's claim to authorship.

its acts are unauthoritative, void, and of no force; that to this compact each State acceded as a State, and is an integral party, its co-States forming, as to itself, the other party; that the government created by this compact was not made the exclusive or final judge of the extent of the powers delegated to itself; since that would have made its discretion, and not the Constitution, the measure of its powers; but that, as in all other cases of compact among powers having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress."

The second, third, fourth, fifth, and sixth resolutions apply these principles to the acts of Congress to punish frauds on the Bank of the United States and other crimes not enumerated in the Constitution, to abridge the freedom of the press and of speech, and to allow the President to banish aliens at pleasure, all of which are pronounced wholly unauthorized, void, and of no effect. The seventh attacks the manner in which the General Government had imposed taxes and excises, as destructive of the limits imposed by the Constitution. The eighth, as originally drawn, declares:

". . . That in cases of an abuse of the delegated powers, the members of the general government being chosen by the people, a change by the people would be the constitutional remedy; but, where powers are assumed which have not been delegated, a nullification of the act is the rightful remedy; that every State has a natural right in cases not within the compact (*casus non fœderis*), to nullify of their own authority all assumptions of power by others within their limits."[1]

[1] Jefferson's Works, ix., 464, etc.; Randall's Jefferson, ii., 449, etc.

This was not adopted however. A copy of these resolutions was sent to Mr. Madison by Mr. Jefferson, November 17, 1798, to guide him in drawing similar ones to be introduced into the Virginia Legislature. These were to be skilfully worded, so as not to commit the body too distinctly to nullification, while committing it to doctrines which involved it. Jefferson wrote:

"I think we should distinctly affirm all the important principles they contain, so as to hold to that ground in future, and leave the matter in such a train as that we may not be committed absolutely to push the matter to extremities, and yet may be free to push as far as events will make prudent."[1]

Mr. Madison acted on this suggestion with great cleverness, and drew a set of resolutions for the Virginia Legislature, which have proved a political palimpsest. That such was his design may be gathered from his letter to Jefferson concerning them, December 20, 1798, in which he said:

"Have you ever considered thoroughly the distinction between the powers of the *State* and of the *Legislature* on questions relating to the federal pact? On the supposition that the former is clearly the ultimate judge of the infractions, it does not follow that the latter is the legitimate organ; especially as a convention was the organ by which the compact was made. This was a reason of great weight for using general expressions that would leave to other States a choice of all the modes possible of concurring in the substance, and would shield the General Assembly against the charge of

[1] Jefferson's Works, iv., 258.

usurpation in the very act of protesting against the usurpations of Congress." [1]

It will be seen also from a passage in a letter to C. E. Hayne, August 27, 1832, in which he says of these resolutions:

"It seems not to have been sufficiently noticed, that in the proceedings of Virginia referred to, the *plural* term *States* was invariably used in reference to their interpositions." [2]

By the first and second of these resolutions, devotion to the Constitutions of the United States and Virginia, and to the Union, was proclaimed. The third was as follows:

"That this Assembly doth explicitly and peremptorily declare that it views the powers of the Federal Government as resulting from the compact to which the States are parties, as limited by the plain sense and intention of the instrument constituting that compact; as no further valid than they are authorized by the grants enumerated in that compact; and that, in case of a deliberate, palpable, and dangerous exercise of other powers not granted by said compact, the States, who are parties thereto, have the right and are in duty bound to interpose for arresting the progress of the evil, and for maintaining within their respective limits the authorities, rights, and liberties appertaining thereto."

By the fourth the General Government was charged with a spirit tending.

"To consolidate the States, by degrees, into one sovereignty, the obvious tendency and inevitable

[1] Madison's Works, ii., 149, 150. [2] Idem, iv., 225.

for the many and flagrant violations of her treaty obligations. On his return he had been greatly honored in the reception given him, and had been offered a seat on the Supreme Court, as an associate justice. This he had declined with a purpose to devote himself to his more lucrative practice, on which he was dependent.

Washington, who had become alarmed at the Republican opposition to the defensive measures adopted against France, requested him to visit Mount Vernon, and persuaded him to offer for Congress from the Richmond district. His opponent was John Clopton, the serving member, and a Republican of marked ability. Marshall was considered a moderate Federalist, considerably removed from the extreme Hamilton wing of that party, and he actually voted for the repeal of the sedition act.[1]

The district was composed of the counties of Henrico, Hanover, New Kent, Charles City, and James City, and had been Republican by a large majority. The contest was very warm, and attracted more interest than any other in the State. For years afterward it was the theme of conversation among those who had participated in it. Recognizing the great weight Mr. Henry's opinions would have in a district in which he was born and had spent most of his life, some of the friends of Clopton reported that he favored his election. In order to counteract this, if possible, Archibald Blair, the clerk of the Executive Council, wrote to Mr. Henry December 28, 1798, and at the same time enclosed him a copy of the resolutions just agreed to by the Legislature. Mr. Henry wrote the following reply, which in the

[1] Lives of Chief Justices, by Santvoord, 341–342.

language of his latest biographer is of deep interest still, not only as showing his discernment of the true nature of that crisis, but as furnishing a complete answer to the taunt that his mental faculties were fallen into decay.[1]

"RED HILL, CHARLOTTE, 8 January, 1799.

"DEAR SIR: Your favor of the 28th of last month I have received. Its contents are a fresh proof that there is cause for lamentation over the present state of things in Virginia. It is possible that most of the individuals who compose the contending factions are sincere and act from honest motives. But it is more than probable that certain leaders meditate a change in government. To effect this, I see no way so practicable as dissolving the confederacy. And I am free to own, that in my judgment most of the measures, lately pursued by the opposition party, directly and certainly lead to that end. If this is not the system of the party they have none and act *ex tempore*.

"I do acknowledge that I am not capable to form a correct judgment on the present politics of the world. The wide extent to which the present contentions have gone will scarcely permit any observer to see enough in detail, to enable him to form any thing like a tolerable judgment on the final result, as it may respect the nations in general. But, as to France, I have no doubt in saying, that to her it will be calamitous. Her conduct has made it the interest of the great family of mankind to wish the downfall of her present government; because its existence is incompatible with that of all others within its reach. And, whilst I see the dangers that threaten ours from her intrigues and her arms, I am not so much alarmed as at the apprehension

[1] Tyler's Henry, 364.

of her destroying the great pillars of all government and of social life; I mean virtue, morality, and religion. This is the armor, my friend, and this alone, that renders us invincible. These are the tactics we should study. If we lose these, we are conquered, fallen indeed. In vain may France show and vaunt her diplomatic skill, and brave troops; so long as our manners and principles remain sound, there is no danger. But believing as I do that these are in danger, that infidelity in its broadest sense, under the name of philosophy, is fast spreading, and that under the patronage of French manners and principles, everything that ought to be dear to man is covertly but successfully assailed, I feel the value of those men amongst us who hold out to the world the idea, that our continent is to exhibit an originality of character; and that instead of that imitation and inferiority, which the countries of the old world have been in the habit of exacting from the new, we shall maintain that high ground upon which nature has placed us, and that Europe will alike cease to rule us and give us modes of thinking.

"But I must stop short, or else this letter will be all preface. These prefatory remarks, however, I thought proper to make, as they point out the kind of character amongst our country men most estimable in my eyes.

"General Marshall and his colleagues exhibited the American character as respectable. France, in the period of her most triumphant fortune, beheld them as unappalled.

"Her threats left them as she found them, mild, temperate, firm. Can it be thought that with these sentiments I should utter anything tending to prejudice General Marshall's election? Very far from it indeed. Independently of the high gratification I felt from his public ministry, he ever stood high

in my esteem as a private citizen. His temper and disposition were always pleasant, his talents and integrity unquestioned. These things are sufficient to place that gentleman far above any competitor in the district for congress. But when you add the particular information and insight which he has gained, and is able to communicate to our public councils, it is really astonishing, that even blindness itself should hesitate in the choice. But it is to be observed, that the efforts of France are to loosen the confidence of the people everywhere in the public functionaries, and to blacken the characters most eminently distinguished for virtue, talents, and public confidence; thus smoothing the way to conquest, or those claims of superiority as abhorrent to my mind as conquest from whatever quarter they may come.

"Tell Marshall I love him, because he felt and acted as a republican, as an American. The story of the Scotch merchants and old torys voting for him is too stale, childish, and foolish, and is a French *finesse;* an appeal to prejudice, not reason and good sense. If they say in the daytime the sun shines, we must say it is the moon; if, again, we ought to eat our victuals, No, say we, unless it is ragout or fricassee; and so on to turn fools, in the same proportion as they grow wise. But enough of such nonsense.

"As to the particular words stated by you, and said to come from me, I do not recollect saying them. But certain I am, I never said anything derogatory to General Marshall; but on the contrary, I really should give him my vote for Congress, preferably to any citizen in the state at this juncture, one only excepted, and that one is in another line.

"I am too old and infirm ever again to undertake public concerns. I live much retired, amidst a multiplicity of blessings from that Gracious Ruler

of all things, to whom I owe unceasing acknowledgments for his unmerited goodness to me; and if I was permitted to add to this catalogue one other blessing, it would be that my countrymen should learn wisdom and virtue, and in this their day know the things that pertain to their peace.

"Farewell. I am, dear Sir, yours,

"PATRICK HENRY.

"TO ARCHIBALD BLAIR, ESQ."[1]

After Mr. Henry's death Mr. Blair sent a copy of this letter to General Washington, with the following from himself.

"RICHMOND, June 19, 1799.

"SIR: The original letter from my departed friend, Patrick Henry, of which the enclosed is the only copy ever suffered to be taken, was intended merely to counteract some malicious reports circulating in the district, that Mr. Henry was unfriendly to the election of Mr. Marshall as a representative to the next Congress. But as it contains sentiments which contradict the base insinuations, that he was an enemy to the opposition measures of our government towards the French, and unfriendly to you, I feel anxious for his letter to be lodged in some place, that hereafter it may stand a chance to be brought forth as a proof against such a calumny; and with this view I transmit to you a copy, in hopes that it will find a place in a corner of your cabinet. I would have sent the original, had it not been much torn by the frequent resort to it during the canvassing for the late election. I have been often urged to publish it in the newspapers; but, that source of communication being at present so polluted, where virtue is traduced and vice sup-

[1] Writings of Washington, xi., 557.

ported, I have thought that posterity will be unable hereafter to decide from it whether their ancestors were virtuous or vicious.

"It is much to be lamented, that a man of Mr. Henry's merits should be so little personally known in the world. I remember at the commencement of the revolution he was dreaded as the Cromwell of America; and since he has been counted upon by the opposition party as a rival to you, and the destroyer of our happy and most valuable constitution. I had the honor of qualifying for my present office, when Mr. Henry commenced the administration of our revolutionary government, from which period to the day of his death I have been upon the most intimate, and I believe friendly terms with him; and I can with truth say, that I never saw anything tyrannical in his disposition, or otherwise ambitious than to be serviceable to mankind. With regard to you, Sir, I may say, as he said of Marshall, that he *loved you;* and for the same reason, *because you felt and acted as a republican, as an American;* for I have no doubt but he alluded to you, when he makes the exception, 'one other who was in another line,' to whom he would give the preference. During the war an attempt was made by an anonymous letter to enlist Mr. Henry on the side of an infamous faction opposed to you as commander-in-chief. His letter to you on that subject, and your answer, have been lost, I believe, during Arnold's invasion; which I lament, as his letter was a proof of his confidence in, and attachment to you, and I had a desire to preserve those documents.

"I have now to apologize for obtruding where I have not the honor of a personal acquaintance; and I flatter myself the motive of rescuing the character of my valued friend from the imputation of being a Jacobin, and foe to you, will plead the excuse of

him, who has the honor to be, with the highest respect, yours &c.,

"A. BLAIR.

"To GENERAL WASHINGTON, *Mount Vernon.*"[1]

General Washington wrote in reply:

"MOUNT VERNON, June 24, 1799.

"SIR: Your favor of the 19th instant, enclosing the copy of a letter from our deceased friend Patrick Henry to you, dated the 8th of January last, came duly to hand. For this instance of your polite attention to me, I pray you to accept my thanks, and an assurance that the latter shall find a distinguished place in my bureau of public papers.

"At any time I should have received the account of this gentleman's death with sorrow. In the present crisis of our public affairs, I have heard it with deep regret. But the ways of Providence are inscrutable, and not to be scanned by short-sighted man, whose duty is submission without repining at its decrees.

"I had often heard of the political sentiments expressed in Mr. Henry's letter to you, and as often a wish that they were promulgated through the medium of the gazettes; the propriety or inexpediency of which measure none can decide more correctly than yourself. But, after what you have written to me, I feel it incumbent to inform you, that another copy of that letter has been either surreptitiously obtained, or fabricated, and more than probably is now in the press; for I was informed on the day preceding my receipt of your letter, that one was in the hands of a gentleman in this county (Fairfax), and that he had been asked, and it was supposed would have it printed.

[1] Writings of Washington, xi., 556.

"My breast never harboured a suspicion that Mr. Henry was unfriendly to me; although I had reason to believe that the same spirit, which was at work to destroy all confidence in the public functionaries, was not less busy in poisoning private fountains and sowing the seeds of distrust among men of the same political sentiments. Mr. Henry had given me the most unequivocal proof, whilst I had the honor to command the troops of the United States in their revolutionary struggle, that he was not to be worked upon by intrigues; and, not conscious that I had furnished any cause for it, I could not suppose that without a cause he had become my enemy since. This proof, contained in the letter to which you allude, is deposited among my files, but (for want of a proper receptacle for them, which I mean to erect) they are yet in packages. When I shall be able to open them with convenience, I will furnish you with a copy of what passed between Mr. Henry and myself, in consequence of the attempt which was made by a party in Congress to supplant me in that command, since you think it is not to be found among his papers and wish to be possessed of it.

"Your letter to me, Sir, required no apology, but had a just claim to the thanks and gratitude of one, who has the honor to be, your most obedient, obliged humble servant,

"GEO. WASHINGTON.

"TO ARCHIBALD BLAIR, ESQ., *Richmond, Va.*" [1]

The letter of Mr. Henry completely turned the guns of Clopton's friends against them. It threw the weight of Mr. Henry's great influence in the district in favor of Marshall. This weight was not all due to Mr. Henry's public services. There were

[1] Writings of Washington, xi., 437.

in the district many warm personal friends, and many blood relations.

No wonder, therefore, that the letter was pretty well worn out by constant use, before the canvass closed. Marshall was elected by the small majority of 108, and his election was very certainly due to Mr. Henry's letter. When it was written Mr. Henry little dreamed of the tremendous effect it was to have upon the future of his country. Marshall on the floor of Congress was truly great. Here his unsurpassed powers of logic were displayed on a suitable theatre, and attracted the admiration of a continent. In his wonderful defence of President Adams in the extradition case of Jonathan Robbins, he delivered an argument which has never been surpassed, if ever equalled, in the history of legislative bodies.[1] Albert Gallatin, the great Republican leader, declared it was unanswerable, when asked to reply, and it settled forever the points of national law involved. But the most notable consequence of this masterly speech was the appointment of Marshall, by President Adams, first to be Secretary of State, and afterward to be Chief Justice of the United States. For thirty-four years he presided over the Supreme Court with a purity of character, a grasp of intellect, and a power of reasoning which earned for him the name of "The Great Chief Justice." During this long term, great constitutional questions of the first importance came before the court, involving the nature of our government. In deciding these, Judge Marshall, with irresistible logic, attacked the destructive theories of

[1] See it in Bee's Reports, 266, and Appendix to 5 Wheaton & Wharton's State Trials, 443.

Jefferson and Madison, and demonstrated that the United States Constitution embodied a national government, capable of self-preservation, supreme within its sphere, and having a Supreme Court as its interpreter.

General Henry Lee also wrote from his district to Mr. Henry, and used with much effect his reply,[1] getting in, however, like Marshall, by a small majority.

[1] Jefferson to Wirt, Historical Magazine for August, 1867, 93.

CHAPTER XLIV.

CLOSING SCENES.—1798-99.

Alarm of General Washington for the Country.—Letter to Mr. Henry Urging Him to Offer for the Legislature.—His Candidacy and Its Effect on Parties.—Appearance at the March County Court of Charlotte.—His Speech to the Assembled People.—First Public Appearance of John Randolph of Roanoke.—Effects of the Kentucky and Virginia Resolutions.—Mr. Madison's Effort to Explain His Work.—Mr. Jefferson's Injustice to Mr. Henry.—Influence over Mr. Wirt.—Difference of Views Between Henry and Jefferson.—Election of Mr. Henry to the House of Delegates.—Appointment as One of the Ministers to France.—His Letter Declining It.—Rapid Decline in Health.—Death Bed.—Grief of His Countrymen.—His Monument.—Growing Reverence for His Character.—His Family.—His Parting Injunction to His Countrymen.

WHEN Mr. Henry wrote to Mr. Blair, "I am too old and infirm ever again to undertake public concerns," he little expected such a call as was made on him one week afterward by General Washington. This eminent patriot was so impressed with the dangers of French influence, and of the theory of the General Government advanced in the Kentucky and Virginia resolutions, that he determined to lay aside his usual reserve, and throw his great weight into the approaching elections, State as well as Federal. Among others to whom he looked was Mr. Henry, who had written him in 1795:

"If my country is destined in my day to encounter the horrors of anarchy, every power of mind and

body which I possess will be exerted in support of the government under which I live, and which has been fully sanctioned by my countrymen."

Satisfied that the country was in great danger, Washington now wrote him, coupling his earnest appeal with a terrible arraignment of the Republican party. His letter was as follows:

(Confidential.)

"MOUNT VERNON, 15th January, 1799.

"DEAR SIR: At the threshold of this letter I ought to make an apology for its contents; but if you will give me credit for my motives, I will contend for no more, however erroneous my sentiments may appear to you.

"It would be a waste of time, to attempt to bring to the view of a person of your observation and discernment, the endeavours of a certain party among us, to desquiet the Public mind with unfounded alarms—to arraign every act of the administration—to set the people at varience with their government—and to embarrass all its measures. Equally useless would it be to predict what must be the inevitable consequences of such a policy, if it cannot be arrested.

"Unfortunately, and extremely do I regret it, the State of Virginia has taken the lead in this opposition. I have said the *state* because the conduct of its legislature in the eyes of the world, will authorize the expression—& because it is an incontrovertable fact, that the principle leaders of the opposition dwell in it, and because no doubt is entertained, I believe, that with the help of the chiefs in the other states, all the plans are arranged, and systematically pursued by their followers in other

parts of the union—though in no state, except Kentucky, that I have heard of, has Legislative countenance been obtained beyond Virginia.

"It has been said, that the great mass of the citizens of this state are well affected, notwithstanding, to the general government, and the Union—and I am willing to believe it—nay do believe it—but how is this to be reconciled with their suffrages at the Elections of Representatives both to congress and their state legislature; who are men opposed to the first, and by the tendency of their measures would destroy the latter? Some among us have endeavored to account for this inconsistency, & though convinced themselves of its truth, they are unable to convince others, who are unacquainted with the internal polity of the state.

"One of the reasons assigned is, that the most respectable and best qualified characters among us will not come forward. Easy and happy in their circumstances at home, and believing themselves secure in their liberties and property, they will not forsake them, or their occupations, and engage in the turmoil of public business, or expose themselves to the calumnies of their opponents, whose weapons are detraction.

"But at such a crisis as this, when everything dear and valuable to us is assailed; when this party hang upon the wheels of government as a dead weight, opposing every measure that is calculated for defence and self-preservation, abetting the nefarious views of another nation upon our rights, preferring as long as they dare contend openly against the spirit and resentment of the people, the interest of France to the welfare of their own country,—justifying the first at the expense of the latter;—When every act of their own government is tortured, by constructions they will not bear, into attempts to infringe and tram-

ple upon the constitution with a view to introduce monarchy.

"When the most unceasing and purest exertions were making to maintain a neutrality which had been proclaimed by the executive, approved unequivocally by Congress — by the State legislatures— nay by the people themselves, in various meetings, and to preserve the country in Peace, are charged as a measure calculated to favor Great Britain at the expense of France, and all those who had any agency in it are accused of being under the influence of the former, and her pensioners; when measures are systematically and pertinaciously pursued, which must eventually dissolve the union or produce coercion; I say, when these things have become so obvious, ought characters who are best able to rescue their country from the pending evil to remain at home? Rather, ought they not to come forward, and by their talents and influence, stand in the breach which such conduct has made on the peace and happiness of this country, and oppose the widening of it?

"Vain will it be to look for peace and happiness, or for the security of liberty and prosperity, if civil discord should ensue. And what else can result from the policy of those among us, who, by all the means in their power, are driving matters to extremity, if they cannot be counteracted effectually? The views of men can only be known, or guessed at, by their words or actions. Can those of the *leaders* of opposition be mistaken then, if judged by this rule? That they are followed by numbers who are unacquainted with their designs, and suspect as little the tendency of their principles, I am fully persuaded—But, if their conduct is viewed with indifference; if there is activity and misrepresentation on one side and supineness on the other, their numbers accumulated by intriguing and discontented foreigners under proscription, who were at war with their own govern-

ment, and the greater part of them with *all* governments, their number will increase and nothing short of Omniscience can foretell the consequences.

"I come now, my good sir, to the object of my letter, which is, to express a hope and an earnest wish, that you would come forward at the ensuing elections (if not for Congress, which you may think would take you too long from home), as a candidate for representative in the General Assembly of this commonwealth.

"There are, I have no doubt, very many sensible men who oppose themselves to the torrent, that carries away others who had rather swim with, than stem it, without an able pilot to conduct them—but these are neither old in legislation, nor well known in the community. Your weight of character and influence in the House of Representatives would be a bulwark against such dangerous sentiments, as are delivered there at present. It would be a rallying point for the timid, and an attraction of the wavering.

"In a word, I conceive it to be of immense importance at this crisis that you should be there; and I would fain hope that all minor considerations will be made to yield to the measure.

"If I have erroneously supposed that your sentiments on these subjects are in union with mine, or if I have assumed a liberty which the occasion does not warrant, I must conclude as I began, with praying that my motive may be received as an apology. My fears that the tranquility of the Union, and of this state in particular, is hastening to an awful crisis, have extorted them from me.

"With great, and very sincere regard and respect, I am, Dear Sir,

"Your most Ob^{t} & Very Humble Servt,

"GEO. WASHINGTON.

"PATRICK HENRY, ESQ." [1]

[1] Writings of Washington, xi., 387.

That General Washington had not over-estimated the danger which threatened the country, we have the testimony of Mr. Jefferson, who looked at the matter from an entirely opposite point of view. He wrote Colonel Hawkins, February 18, 1803:

"One source of great change in social intercourse arose while you were with us, though its effects were as yet scarcely sensible on society or government. I mean the British treaty, which produced a schism that went on widening and rankling till the years '98, '99, when a final dissolution of all bonds, civil and social, appeared imminent." [1]

Infirm as he was, Mr. Henry could not resist such an appeal from the man he revered as the father of his country. He at once declared himself a candidate for the House of Delegates at the approaching election, and gave notice that he would address the people of Charlotte on March county court day, the first Monday in the month. The announcement excited intense interest throughout the State, and the Republicans determined to marshal their ablest men to meet him in the Legislature. Madison, Giles, Nicholas, John Taylor, and others of marked ability were put forward for seats in that body, and it was intended that Madison should again lead the host which was to oppose him.

The distance of Red Hill from the county seat, twenty miles, and his declining health, had prevented Mr. Henry from mingling with his countymen during the few years he had lived in Charlotte. The desire to see and hear him, therefore, was in

[1] Jefferson's Works, iv., 465.

creased by the fact that so few persons in the county had enjoyed that privilege, and that this would probably be the last opportunity of doing so. The interest extended to the adjoining counties, and among others the professors and students of Hampden Sidney College, in the adjoining county of Prince Edward, came, leaving their lecture-rooms deserted.

Mr. Henry accomplished the twenty miles journey from his home to the Court House, in his carriage, before court day, and was entertained by a friend near the village.[1] When he was driven to the village on court morning, and descended from his carriage, he found a crowd had already assembled, which surrounded and followed him whithersoever he moved, manifesting unmistakably their admiration and reverence. A Baptist minister, whose piety was wounded by this homage paid to a mortal, asked the people aloud, why they thus followed Mr. Henry about. "Mr. Henry," said he, "is not a god!" "No," said Mr. Henry, deeply affected both by the scene and the remark; "no, indeed, my friend; I am but a poor worm of the dust—as fleeting and unsubstantial as the shadow of the cloud that flies over yon fields, and is remembered no more." The tone with which this was uttered, and the look which accompanied it, affected every heart, and silenced every voice.[2]

He soon took a seat in the porch of the tavern, and waited for the hour to make his speech. The scene is thus described by one of the students of Hampden Sidney, present,[3] who pushed his way

[1] This was doubtless Colonel Joel Watkins, who lived three miles from the county seat.

[2] Wirt's Henry, 408.

[3] John Miller, of South Carolina. See Tyler's Henry, 371.

through the gathering crowd, and secured a position by the pedestal of a pillar within eight feet of him.

"He was very infirm, and seated in a chair conversing with some old friends, waiting for the assembling of the immense multitudes who were pouring in from all the surrounding country to hear him. At length he arose with difficulty, and stood somewhat bowed with age and weakness. His face was almost colorless. His countenance was careworn, and when he commenced his exordium, his voice was slightly cracked and tremulous. But in a few moments a wonderful transformation of the whole man occurred, as he warmed with his theme. He stood erect, his eye beamed with a light that was almost supernatural; his features glowed with the hue and fire of youth; and his voice rang clear and melodious, with the intonations of some grand musical instrument whose notes filled the area, and fell distinctly and delightfully upon the ears of the most distant of the thousands gathered before him."

The substance of his speech has been preserved in the accounts given by the listeners, and is as follows:

"He told the people that the late proceedings of the Virginia Assembly had filled him with apprehension and alarm; that they had planted thorns upon his pillow; that they had drawn him from that happy retirement which it had pleased a bountiful Providence to bestow, and in which he had hoped to pass, in quiet, the remainder of his days; that the State had quitted the sphere in which she had been placed by the Constitution; and in daring

to pronounce upon the validity of Federal laws, had gone out of her jurisdiction in a manner not warranted by any authority, and in the highest degree alarming to every considerate man; that such opposition on the part of Virginia to the acts of the General government must beget their enforcement by military power; that this would probably produce civil war; civil war, foreign alliances; and that foreign alliances must necessarily end in subjugation to the powers called in. He conjured the people to pause and consider well before they rushed into such a desperate condition, from which there could be no retreat. He painted to their imaginations Washington, at the head of a numerous and well-appointed army, inflicting upon them military execution. 'And where (he asked) are our resources to meet such a conflict? Where is the citizen of America who will dare to lift his hand against the father of his country, to point a weapon at the breast of the man who had so often led them to battle and victory?' A drunken man in the crowd, John Harvey by name, threw up his arm and exclaimed, that 'he dared do it.' 'No,' answered Mr. Henry, rising aloft in all his majesty, and in a voice most solemn and penetrating; '*you dare not do it; in such a parricidal attempt, the steel would drop from your nerveless arm!*' 'The look and gesture at this moment,' said Dr. John H. Rice, who related the incident, 'gave to these words an energy on my mind unequalled by anything that I have ever witnessed.' Mr. Henry, proceeding in his address, asked, 'whether the county of Charlotte would have any authority to dispute an obedience to the laws of Virginia; and he pronounced Virginia to be to the Union what the county of Charlotte was to her. Having denied the right of a State to decide upon the constitutionality of Federal laws, he added that perhaps it might be necessary

to say something of the merits of the alien and sedition laws, which had given occasion to the action of the Assembly. He would say of them, that they were passed by Congress, and Congress is a wise body. That these laws were too deep for him, they might be right and they might be wrong. But whatever might be their merits or demerits, it belonged to the people who held the reins over the head of Congress, and to them alone, to say whether they were acceptable or otherwise to Virginians; and that this must be done by way of petition. That Congress were as much our representatives as the Assembly, and had as good a right to our confidence. He had seen with regret the unlimited power over the purse and sword consigned to the General government, but that he had been overruled, and it was now necessary to submit to the constitutional exercise of that Power. 'If,' said he, 'I am asked what is to be done when a people feel themselves intolerably oppressed, my answer is ready: *Overturn the government.* But do not I beseech you, carry matters to this length without provocation. Wait at least until some infringement is made upon your rights which cannot be otherwise redressed; for if ever you recur to another change, you may bid adieu forever to representative government. You can never exchange the present government but for a monarchy. If the administration have done wrong, let us all go wrong together.' Here he clasped his hands and waved his body to the right and left, his auditory unconsciously waving with him. 'Let us,' said he, 'trust God and our better judgment to set us right hereafter. United we stand, divided we fall. Let us not split into factions which must destroy that union upon which our existence hangs. Let us preserve our strength for the French, the English, the Germans, or whoever else shall dare invade our

territory, and not exhaust it in civil commotions and intestine wars.' He concluded by declaring his design to exert himself in the endeavor to allay the heart-burnings and jealousies which had been fomented in the State legislature; and he fervently prayed, if he was deemed unworthy to effect it, that it might be reserved to some other and abler hand to extend this blessing over the community."

"There was," says the distinguished orator from whose narration nearly all of the foregoing was taken, "an emphasis in his language to which, like the force of his articulation, and the commanding expression of his eye, no representation can do justice; yet I am conscious of having given a correct transcript of his opinions, and in many instances his very expressions."

As he closed his address he literally descended into the arms of the obstreperous throng, and was carried into a room of the tavern where he could rest after his fatigue. Dr. John H. Rice gave expression to the feelings of the audience when he exclaimed aloud, "The sun has set in all his glory."

Before the applause had subsided another speaker took the stand. He was a tall, slender, effeminate-looking youth, with light hair combed back, a pale countenance, beardless chin, bright, quick hazel eyes, and dressed in a blue frock, buff small-clothes, and fan-top boots.[1] This was John Randolph, who had lately moved to the county, and rose to make his maiden speech as a candidate for Congress on the Republican side. He was suffering with the hoarseness of a cold, and his opening sentences were scarcely audible. The audience began to disperse,

[1] Garland's Randolph, i., 129.

and an Irishman who attempted to catch what this daring stripling had to say, exclaimed, "Tut! tut! it won't do, it's nothing but the bating of an old tin pan after hearing a fine church organ."[1] But as the young man proceeded he began to recover his voice, and to give signs of that peculiar eloquence for which he was afterward so celebrated. And then the appreciation of a rustic was heard in the exclamation, "I tell you what, the young man is no bug-eater neither."[2]

Randolph began by saying, "that he had admired that man more than any one on whom the sun had shone, but that now he was constrained to differ from him *toto cœlo*." He made a short address, the points of which were reported to Mr. Henry in his room. Mr. Henry made no reply to the young man who thus dared to enter the lists against him; but with the greatest kindliness he said to those around him, "He is a young man of promise; cherish him, and he will make an invaluable man." And to Randolph himself, when he afterward met him, he said, "Young man, you call me father; then, my son, I have something to say unto you" (holding both of his hands): "*Keep justice, Keep truth*—and you will live to think differently."[3]

The foregoing account of Mr. Henry's speech is taken almost entirely from a manuscript found among Mr. Wirt's papers, in the handwriting of John Randolph. It is dated March, 1799, and addressed to Patrick Henry, and seems to have been

[1] Howe's Virginia, 225.
[2] Virginia Historical Magazine, iv., 35, Dr. Rice's account.
[3] Adams's Randolph, 31; Garland's Randolph, i., 141.

written for publication in the newspapers. Mr. Wirt followed it closely in his account, but did not state who furnished him the information. In one material respect it differs from the above account. It makes Mr. Henry say of the alien and sedition laws: "His private opinion was, that they were good and proper." There seems to be abundant evidence of the fact that this was a misapprehension of what he really said. In the Petersburg *Index* for August, 1867, Charles Campbell, the historian, published the certificates of four gentlemen, given in 1837, who had ample opportunity of knowing Mr. Henry's sentiments as to these laws, and who concurred in stating that he disapproved of them. One was George Woodson Payne, who married a sister of Mrs. Henry, and was intimately acquainted with his views. He stated "that he knew of his own knowledge that Mr. Henry thought those laws unconstitutional, particularly the sedition act, and that their operation was harsh in many cases." The other three were Rev. Clement Read, Robert Morton, and Colonel Clement Carrington, who heard Mr. Henry's speech. Mr. Read states "that Mr. Henry neither approved nor disapproved these laws in his speech, but he was satisfied he was opposed to them from some expressions which fell from him before he made his speech." Colonel Carrington was the Federal candidate for Congress, and he states that "Mr. Henry neither approved nor condemned those laws, but said they were beyond his comprehension, and evidently declined giving an opinion of them." Mr. Robert Morton was a deputy in the office of Thomas Read, the clerk, who was a candidate for the House of Delegates. He states,

"I remember to have heard Colonel Thomas Read, with whom I lived until I arrived to over twenty-one years of age, say, that he was gratified, as much as he differed with Colonel Henry on some political topics of the day, that they agreed in opposition to the alien and sedition laws."

In addition to these statements, the Hon. James W. Bouldin, who lived in the county of Charlotte, wrote out a statement of what he had heard from three old men of great intelligence, who heard Mr. Henry's speech. He says:

"I have heard from Richard Venable, Jacob Morton, and the late Rev. John Robinson, separately, an account of this speech, and all agreed in substance as to what he said immediately bearing on this point. I remember more particularly what Robinson said, which was that, when questioned whether the alien and sedition laws were constitutional, Mr. Henry replied: 'They were passed by Congress, Congress is a wise body—too deep for me. They may be right—they may be wrong. But this much I know—you are wrong—you are now progressing to civil war, and when you reach the field, who will you meet—Washington—the father of his country; and you will see when you face him your steel will turn.'"

The skeleton of Mr. Henry's speech which has been preserved, sustains the concurrent testimony of his auditors, that his effort was to quiet the minds of the people, and to induce them to follow constitutional methods for the redress of their grievances. It was worthy of the encomium of Dr. Archibald Alexander, the president of the college, who pronounced it "a noble effort, such as could have pro-

ceeded from none but a patriotic heart."[1] Such has been the judgment of posterity. Like Moses of old, this leader of the exodus of America from her state of bondage, used his latest breath in prophetic warning to his people. It seemed as though, scanning the future, his eye caught the vision of great armies making crimson the soil of his beloved State, and his ear caught the reverberations of the cannon, which sixty-six years afterward echoed around the spot upon which he stood, as the last shot in the great civil war was fired at Appomattox.[2]

The seed sown by Jefferson and Madison soon brought forth bitter fruit. In February and March there broke out, in the counties of Northampton, Bucks, and Montgomery, in Pennsylvania, under the leadership of John Fries, a rebellion against the tax law enacted by Congress in 1798, which had to be quelled by United States regulars. Afterward some of the States which at first disapproved of the Kentucky and Virginia resolutions, found it convenient to resort to them as authority for their right to refuse obedience to obnoxious Federal acts.

In 1809 the State government of Pennsylvania ordered out her militia to oppose the mandate of a Federal court. In 1809-10, New England authorities endeavored to prevent the operation of the restrictive system of Congress.[3] In 1814 the Hartford Convention, composed of delegates from Massachusetts, Connecticut, Rhode Island, New Hampshire, and Vermont, planting itself on the principles of these resolutions, claimed the right to resist the

[1] Life of A. Alexander, 188.

[2] Appomattox Court House is twenty-seven miles from Charlotte Court House, and the last cannon of the late war was distinctly heard at the latter place. [3] Encyclopædia of Political Science, etc., ii., 1050.

measures of Mr. Madison's administration in the conduct of the war then being waged with England, and to resort to disunion as the ultimate remedy.[1] In 1820 the State of Ohio opposed the operation of a branch of the United States Bank within her borders.[2]

In 1832–3 South Carolina passed acts nullifying the operation of the Tariff within her borders.[3] In 1839 the Wisconsin Legislature, planting itself squarely upon the Kentucky resolutions, resolved to defy the decision of the Supreme Court declaring null and void its personal liberty act.[4] And in 1860–61 the Southern States, claiming the right of sovereigns, determined to withdraw from the Union, upon the election of Mr. Lincoln. Mr. Madison, after death had broken the influence of Jefferson over him, and South Carolina had threatened an armed resistance to the United States, denied that he meant to teach the right of a State to nullify a Federal law, or to leave the Union, and declared that nullification and secession were twin heresies which should be buried in the same grave.[5] Yet these acts of actual or threatened resistance to Federal authority were all professedly based on his famous resolutions, and were claimed to be the logical conclusion from them as a premise.[6] Mr. Madison spent much of the latter part of his life in resisting this conclusion, and in discussing the nature of the Federal government took very nearly the same view of it that Mr. Henry had always insisted on.[7]

[1] Encyclopædia of Political Science, etc., i., 626. [2] Idem, ii., 1053.
[3] Idem. [4] Idem.
[5] See his letters to N. P. Trist and others, and his article on Nullification in vol. iv. of his Works.
[6] See Works of Calhoun, i., Essay on United States Constitution.
[7] See his Writings.

It was not to be expected that Mr. Henry's patriotic effort should be appreciated by Mr. Jefferson, against whose theory of the Federal Government it was directed. It in fact aroused his bitterest resentment, which found expression in a malignant attack upon Mr. Henry's character. On May 14, 1799, he wrote to Judge Archibald Stuart:

"The state elections have generally gone well. Mr. Henry will have the mortification of encountering such a mass of talents as he has never met before, for from everything I can learn, we never had an abler nor a sounder legislature. His apostacy must be unaccountable to those who do not know all the recesses of his heart."[1]

Nor did the death of Mr. Henry, nor the lapse of time, soften his feelings. Appealed to by Mr. Wirt to aid him with his reminiscences in the preparation of a Life of Mr. Henry, he attempted to stab his character to the death. Claiming to know the recesses of his heart, he wrote:

"About the close of the war, he (Mr. Henry) engaged in the Yazoo speculation, and bought up a great deal of depreciated paper at two shillings, and two shillings sixpence in the pound, to pay for it. . . . After its (the Federal Constitution's) adoption he continued hostile to it, expressing more than any other man in the United States his thorough contempt and hatred of General Washington. From being the most violent of all anti-Federalists, however, he was brought over to the new constitution by his Yazoo speculation, before mentioned. The Georgia legislature having declared that transaction fraudulent and void, the depreciated paper

[1] MS. in possession of Hon. A. H. H. Stuart.

which he had bought up to pay for the Yazoo purchase was likely to remain on his hands worth nothing. But Hamilton's funding system came most opportunely to his relief, and suddenly raised his paper from two shillings sixpence to twenty-seven shillings sixpence the pound. Hamilton became now his idol, and abandoning the Republican advocates of the Constitution, the Federal government on Federal principles became his political creed."[1]

The reader of Mr. Wirt's book will at once recognize the influence these statements had upon the author in its preparation. It would be difficult to find sentences more compact with misrepresentations. In examining them it should be remembered that Mr. Jefferson wrote, in the same letter, that after the year 1781, and therefore during the period referred to in the foregoing extract, he had no personal knowledge of Mr. Henry.

The only Yazoo speculation declared fraudulent and void by the Georgia Legislature, was the sale under the act of February 7, 1795, so declared in the act of January 30, 1796, because of the bribery of the Legislature of 1795. It has been shown that Mr. Henry was not only not interested as a purchaser under the fraudulent act of 1795, but by reason of it was utterly deprived of the lands his company had purchased in 1789, under an act never attacked as fraudulent. Nor was it possible that Mr. Jefferson's statement as to Mr. Henry's Georgia certificates could be true. In 1790 the Virginia Yazoo Company paid on their purchase $1,515 in currency.[2] On December 12, 1791, they

[1] Historical Magazine for August, 1867, 93.
[2] American State Papers, Public Lands, i., 163.

tendered the entire balance of their purchase money in Georgia certificates, and acknowledged claims against the State.[1] The funding and assumption act proposed by Hamilton, passed Congress August 4, 1790, through the influence, it will be remembered, of Mr. Jefferson, and gave to the Georgia certificates an immediate increase of value.[2] So that when the Treasurer of Georgia, on December 12, 1791, refused these certificates, they already had the increased value given them by the funding system of Hamilton, by which the United States assumed the debts of the several States incurred during the war.

With this increased value given them in 1790, it was not possible that the refusal of the Treasurer of Georgia to take them in 1791, could have made it likely that they would remain on Mr. Henry's hands worth nothing. It is evident that Mr. Jefferson's desire to impute a dishonorable motive to Mr. Henry has caused him to mistake dates, and to place the act of Georgia of 1796 prior to the funding system of Hamilton of 1790. The transactions of Mr. Henry's land company in Georgia were fully detailed in their memorial to Congress, and the report of a committee thereon, in 1803, while Mr. Jefferson was President;[3] and there can be no excuse for his misrepresentation of Mr. Henry's connection with the Georgia purchases.[4]

Nor can he be excused for his other statements. It has been seen that Mr. Henry opposed the adoption of the unamended Constitution, and that, as he

[1] American State Papers, Public Lands, i., 163.
[2] Randall's Jefferson, i., 606.
[3] American State Papers, Public Lands, i., 160, etc.
[4] For Jefferson's knowledge, see his Works, iii., 251.

had pledged in the Convention, he afterward lived under it as a good citizen. After it was amended, he of course was more contented with it, although he had failed to secure some of the most important alterations. He recognized from the first its true nature, and never denied to it the powers with which it had been invested. At no time was it true that he expressed hatred or contempt of General Washington. His letters have been given, as far as known, and in them, as on the floor of the Convention of 1788, his references to him were marked with the greatest respect and admiration. That he was always his friend is stated by John Marshall and Archibald Blair, who knew him well, and we have the testimony of Washington himself that he had no reason to believe he had ever been otherwise.[1]

Nor is there the slightest evidence that Hamilton's financial system changed Mr. Henry's political attitude toward him. It has been seen that Mr. Henry voted in the Legislature of 1790 for the resolution condemning the assumption act as unconstitutional, and that he afterward disapproved of one at least of Hamilton's reports; and we do not find him at any time approving of Hamilton's construction of Federal power. Indeed, Mr. Jefferson himself had borne testimony to the fact that the financial system of Hamilton had not changed Mr. Henry's political views. In his letter to Colonel Monroe, July 10, 1796, six years after the date of that system, he had charged Washington with endeavoring to win Mr. Henry to the Federal party by offers of office, and had added, "some impression is thought to be made, but we do not believe it to be radical."

[1] Letter to A. Blair, ante, 591.

Similar testimony was borne by the Republican Legislature which met the next fall and elected Mr. Henry Governor of the State.

It would seem, therefore, that Mr. Jefferson considered Mr. Henry consistent in his political principles until he took issue with him on the Kentucky and Virginia resolutions of 1798; then for the first time we find him calling Mr. Henry an *apostate*. The difference between them touching these resolutions was not as to the manner in which the powers vested in the Federal Government were to be exercised, for both agreed that Congress should be confined to the powers granted. Nor were they opposed on the right of a legislature to protest against a Federal act as unconstitutional. This Mr. Henry had joined in doing. Their difference consisted in their views as to the nature of the Federal Constitution. Mr. Jefferson held it to be only a compact between sovereign States, each of whom had the right to judge of its infraction, and of the remedy to be resorted to, and if deemed proper, to resort to nullification or secession. Mr. Henry, on the contrary, considered that the United States Constitution created a government under which the people of the United States became one nation, as to the objects embraced in that instrument; and that, as to these, the people of the several States had merged their sovereignty into that of the whole. In his estimation, therefore, the only right left to a State to annul a Federal act or to dissolve the Union was the right of revolution. That this was his construction of the United States Constitution from the beginning, is made plain by his speeches in the Virginia Convention of 1788. In these he declared

again and again, that the plan contained in the instrument was that of a consolidated government. With his construction of the Constitution it was adopted by Virginia and made binding on him. And when, ten years afterward, he is found giving it the same construction, he is charged with being an apostate from his former principles. His firm and patriotic adherence to his principles, indeed, compares most favorably with the conduct of Mr. Jefferson, and of his follower, Mr. Madison, in whose political histories serious inconsistencies might be pointed out, if it were worth the while.

In truth, however, there was a radical difference between Mr. Henry and Mr. Jefferson, as to what was the foundation on which republican institutions in America must rest to be permanent. Mr. Jefferson based his hope of American liberty upon the success of the principles of the French Revolution. As late as 1799 we find him writing to Judge Stuart, "The cause of republicanism triumphing in Europe can never fail to do so here in the long run."[1]

Instead of trusting American liberty to the mercy of unbridled passions, Mr. Henry looked to the restraining and elevating principles of Christianity as the hope of his country's institutions. "Righteousness alone can exalt them as a nation," was his declared belief. Certain it is that Mr. Henry was never conscious of any change in his political sentiments touching the principles which underlie American institutions. This is made clear by a message to his friend, Judge Tyler, presented in the following

[1] Letter of May 14, 1799, in possession of Hon. A. H. H. Stuart.

extract from a letter of the Judge to Mr. Wirt. He wrote of Mr. Henry:

"The close of his life was clouded in the opinion of many of his friends, supposing he was attached to the aristocratic party; but however he might have been misled in founding his opinions by misrepresentations in his aged and infirm state, it was impossible he could be an aristocrat. His principles were too well fixed. . . . I lament that I could not see him before his death; he sent me a message expressing his desire to satisfy me how much he had been misrepresented. 'Men might differ in ways and means, and not in principles,' said he."[1]

Mr. Henry returned to Red Hill exhausted by his trip, and was soon confined to his chamber. He was unable to attend the election which was held at the Court House on the first Monday in April, and which resulted in his receiving a majority of the votes cast. John Randolph was also elected to Congress, and doubtless many of the good people of Charlotte voted for both.

The intense resentment aroused in America by the treatment of her Ministers to France, and the warlike measures adopted by Congress, convinced Talleyrand that he had committed a mistake, and he communicated to Mr. Gerry, who had received notice of his recall, that if the United States would send new envoys they would be received. President Adams, in consequence, sent to the Senate the names of "Oliver Ellsworth, Chief Justice of the United States, Patrick Henry, late Governor of

[1] MS. See also Letters and Times of the Tylers, i., 183. The Judge regarded the Federal as the aristocratic party.

Virginia, and William Vans Murray, as Ministers Plenipotentiary to the French Republic, for the purpose of discussing and settling all controversies between the two countries." They were at once confirmed by the Senate. Timothy Pickering, the Secretary of State, in sending Mr. Henry his commission,[1] enclosed copies of the President's Messages to the Senate of February 18, and 25, 1799,[2] indicating the conditions on which the new negotiation with France was to take place. These met the approval of Mr. Henry, as is shown in his reply. Raising himself from his sick bed he declined the proffered honor in the following letter:

"CHARLOTTE COUNTY, April 16, 1799.

"SIR: Your favor of the 26th ultimo did not reach me till two days ago. I have been confined for several weeks by a severe indisposition, and am still so sick as scarcely to be able to write this.

"My advanced age and increasing debility compel me to abandon every idea of serving my country, where the scene of operation is so far distant, and her interests call for incessant and long-continued exertion. Conscious as I am of my inability to discharge the duties of envoy, &c. to France, to which by the commission you send me, I am called, I herewith return it.

"I cannot, however, forbear expressing on this occasion, the high sense I entertain of the honor done me by the President and Senate in the appointment. And I beg you, sir, to present me to them in terms of the most dutiful regard, assuring them that this mark of their confidence in me, at a crisis so event-

[1] See his letter dated March 25th, 1799, in the Virginia Historical Register, 11–20.

[2] Gibbs's Administrations of Washington and Adams, ii., 203–205.

ful, is an agreeable and flattering proof of their consideration toward me, and that nothing short of an absolute necessity could induce me to withhold my little aid from an administration, whose ability, patriotism, and virtue, deserve the gratitude and reverence of all their fellow-citizens.

"With sentiments of very high regard, &c.,

"P. HENRY.

"To the PRESIDENT OF THE UNITED STATES."

It was not long before his disease developed alarming symptoms. Dr. George Cabell, of Lynchburg forty miles distant, an eminent physician, was sent for, and remained with him. Early in June, his daughter, Mrs. Martha Fontaine, living in Henry County, received a letter from him beginning, "Dear Patsy, I am very unwell, and Dr. Cabell is with me." Upon this alarming intelligence, she and others of his kindred in that neighborhood made all haste to go to him. They found him sitting in a large old-fashioned arm-chair, in which he was easier than in bed. His children beyond Richmond were detained by the sudden illness of Mrs. Anne Roane while on a visit to her sister, Mrs. Aylett. The result was conveyed in a letter from Judge Roane dated May 24, in which he said:

"The cup of my misery, my dear sir, is now full, by the loss of my most amiable, virtuous, and affectionate consort, your dutiful and affectionate daughter."

This letter was received June 1, and Mr. Henry was so ill that it was deemed best not to break the sad tidings to him. He was entirely conscious of

his condition, and was perfectly calm at the prospect of death. To the dear ones who tenderly watched by his side, he said, with great solemnity, "Oh, how wretched should I be at this moment, if I had not made my peace with God!" [1] His frame had become wasted by continued ill-health, and he was now afflicted with intussusception, which was to prove fatal.

The following graphic account of his last moments has been preserved from the narration of his grandson, Patrick Henry Fontaine, who was present:

"On June 6, all other remedies having failed Dr. Cabell proceeded to administer to him a dose of liquid mercury. Taking the vial in his hand, and looking at it for a moment, the dying man said: 'I suppose, doctor, this is your last resort.' The doctor replied: 'I am sorry to say, governor, that it is. Acute inflammation of the intestines has already taken place; and unless it is removed mortification will ensue, if it has not already commenced, which I fear.' 'What will be the effect of this medicine?' said the old man. 'It will give you immediate relief, or——' the kind-hearted doctor could not finish the sentence. His patient took up the word: 'You mean, doctor, that it will give relief or will prove fatal immediately?' The doctor answered: 'You can only live a very short time without it, and it may possibly relieve you.' Then Patrick Henry said, 'Excuse me, doctor, for a few minutes;' and drawing over his eyes a silken cap which he usually wore, and still holding the vial in his hand, he prayed, in clear words, a simple child-like prayer for his family, for his country, and for his own soul then in the presence of death. After-

[1] Evangelical Magazine, i., 80.

ward, in perfect calmness, he swallowed the medicine. Meanwhile Dr. Cabell, who greatly loved him, went out upon the lawn, and in his grief threw himself down upon the earth under one of the trees weeping bitterly. Soon, when he had sufficiently mastered himself, the doctor came back to his patient, whom he found calmly watching the congealing of the blood under his finger-nails, and speaking words of love and peace to his family, who were weeping around his chair. Among other things, he told them that he was thankful for that goodness of God, which, having blessed him all his life, was then permitting him to die without any pain. Finally, fixing his eyes with much tenderness on his dear friend, Dr. Cabell, with whom he had formerly held many arguments respecting the Christian religion, he asked the doctor to observe how great a reality and benefit that religion was to a man about to die. And after Patrick Henry had spoken to his beloved physician those few words in praise of something which, having never failed him in all his life before, did not then fail him in his very last need of it, he continued to breathe very softly for some moments; after which they who were looking upon him, saw that his life had departed."[1]

Thus passed from time to eternity the immortal spirit of PATRICK HENRY.

With no pomp or ceremony, but amid the tears of his devoted family and loving neighbors, Patrick Henry was laid to rest in the quiet graveyard at Red Hill, at the foot of the garden.

A plain marble slab covers his grave, on which are inscribed his name, the dates of his birth and death, and the words, "His fame is his best epitaph."

News of his death soon spread throughout the

[1] Tyler's Henry, 376, from Fontaine MS.

country and called forth the most heartfelt expressions of grief.

The *Virginia Gazette* of June 14, 1799, appeared in mourning and contained the following obituary notice:

"On the 6th inst. departed this life PATRICK HENRY, Esquire, of Charlotte County.

"Mourn, Virginia, mourn! Your Henry is gone! Ye friends to liberty in every clime, drop a tear.

"No more will his social feelings spread delight through his happy house.

"No more will his edifying example dictate to his numerous offspring the sweetness of virtue, and the majesty of patriotism.

"No more will his sage advice, guided by zeal for the common happiness, impart light and utility to his caressing neighbors.

"No more will he illuminate the public councils with sentiments drawn from the cabinet of his own mind, ever directed to his country's good, and clothed in eloquence sublime, delightful, and commanding.

"Farewell, first-rate patriot, farewell!

"As long as our rivers flow, or mountains stand —so long will your excellence and worth be the theme of homage and endearment, and Virginia, bearing in mind her loss, will say to rising generations, imitate my HENRY."

It was related of General Henry Lee, that, "seated at a convivial board when the death of Patrick Henry was announced, he called for a scrap of paper, and in a few moments produced a striking and beautiful eulogium upon the 'Demosthenes of modern liberty.'"[1] This production has been

[1] Recollections of Washington, by G. W. P. Custis, 362.

lost,[1] but its character may be learned from the passage from Shakespeare with which it is said to have commenced.

> "Hung be the heavens with black, yield day to night!
> Comets, importing change of times and states,
> Brandish your crystal tresses in the sky,
> And with them scourge the bad revolting stars,
> That have consented unto Henry's death!"

The distress at his death and his loss at the critical period at which it occurred, was universal among the Federalists, who were counting so much on his influence in the coming Assembly. General Edward Carrington wrote to Washington, on the report of his declining health: "His death, or even inability to attend the Legislature would be truly deplorable."[2]

Ralph Wormely, upon the first and false report of his death, wrote to Washington:

"Report (too well founded, I fear) announces the death of Mr. Patrick Henry. He died, it is said, the day after he was elected a delegate to the Assembly. Alarmed and indignant at the measures of the majority of the late Assembly, he offered himself and was elected, and intended to exert all the force of his eloquence to endeavor to change the temper of the delegates, should that of the present members be similar to that of their predecessors. He is surely a great public loss; at *this crisis* and with *this* disposition, what mighty good would not such a man, with his great powers of oratory and known character of integrity, have wrought!"[3]

[1] General Robert E. Lee, a son of General Henry Lee, so wrote the author.

[2] Letter dated April 25, 1799, in State Department at Washington.

[3] Letter, May 12, 1799, idem.

John Marshall wrote June 12, 1799 :

"Virginia has sustained a very severe loss, which all good men will long deplore, in the death of Mr. Henry. He is said to have expired on Thursday last."[1]

We have seen the strong expression of Washington's feelings on receiving this sad intelligence. The appreciation of his loss was by no means confined, however, to the Federalists. The Republicans felt relieved, that he would not antagonize on the floor of the Assembly their lauded resolves of 1798; but some of the nobler men of the party did not allow political antagonism to lessen their veneration for his character, or their appreciation of his great services. Of this class we have an example in Judge Tyler, as appears by the following letter congratulating James Monroe on his election as Governor of Virginia.[2]

"GREEN-WAY, Dec'. 27, 1899.

"DEAR SIR: After the bustle is a little over I set down to congratulate you on the Signal victory you have obtain'd over your Enemies; and also for that which is gained by Truth over Falsehood & Democracy over Tyranny all over the world. 'Vive la Republique.'

"I hope you are well and your good Lady and children, and I hope also to see you all with a few of the Chosen at Green-way in the course of the year, such as Randolph, Foushee, &c., &c.

"I have not time to compare the characters of Washington and Henry, or I would clearly show

[1] Letter to Washington, in State Department at Washington.
[2] MS. in State Department.

that fewer blunders fell to the share of the latter than the former, and yet I have no objection to paying a tribute to the past services and virtues of either. Your friend & Servt,

"JNO. TYLER.

"TO THE HON'BLE JAMES MONROE, Esqr.
"*Governor of Virginia, Richmond.*"

With such testimonials to the esteem and affection entertained for him by his countrymen, we can give no credence to the statement of Mr. Jefferson, in his often cited letter to Mr. Wirt, that "Mr. Henry's apostacy sunk him to nothing in the estimation of his country." The apostacy was in Mr. Jefferson's imagination, and the disfavor was confined to him and the bitterest of his partisans. This was manifested in a most indecent manner at the next session of the Legislature, when a resolution for the execution of a marble bust of Mr. Henry, to be placed in the hall of the House of Delegates, was laid on the table by Republican votes. But this feeling was changed within less than twenty years. Mr. Wirt wrote in 1817, "The sentiments now so universally expressed in relation to Mr. Henry, evince that the age of party resentment has passed away, and that that of the noblest gratitude has taken its place." Reverence for his character has continued to increase as years have passed, and when, in 1850, the names of the men were selected whose figures should surround the equestrian statue of Washington to be erected in the Capitol Square, at Richmond, the name of Patrick Henry was one of the first determined on. And, as though Nemesis had ordered it, the bronze figures of Henry and Jefferson were unveiled, along with that of Wash-

ington, on February 22, 1858, before a people who honored the memory of Henry not less, certainly, than that of Jefferson.

By Mr. Henry's first marriage there were six children—John, William, Edward, Martha, who married John Fontaine, Anne, who married Spencer Roane, and Elizabeth, who married Philip Aylett. Of these, John, Edward, and Anne died before their father. By his second marriage there were eleven children—Dorothea Spotswood, who married George D. Winston, Sarah Butler, who married first Robert Campbell, a brother of the poet, and afterward Alexander Scott, Martha Catherine, who married Edward Henry, Patrick, Fayette, Alexander Spotswood, Nathaniel, Richard who died in infancy, Edward Winston, John, and Jane Robertson, who died four days after her birth.

Mr. Henry left a will dated November 20, 1798, and written throughout with his own hand. By it he divided a large estate between his widow and children, sufficient to make them independent. After disposing of his estate, he added these words:

"This is all the inheritance I can give to my dear family. The religion of Christ can give them one which will make them rich indeed."

Along with his will there was found, as has been stated, a copy of his resolutions of May 29, 1765, against the Stamp Act, sealed up and directed to his executors. He seemed to care for the preservation of no other evidence of his public service. The endorsement was his parting address to his countrymen. After describing the circumstances of their

presentation and adoption, and stating that they established the point of resistance to British taxation, and brought on the war which established American independence, he added these memorable words, which cannot be too often recalled by every American citizen:

"Whether this will prove a blessing or a curse, will depend upon the use our people make of the blessings which a gracious God hath bestowed on us. If they are wise, they will be great and happy. If they are of a contrary character, they will be miserable. Righteousness alone can exalt them as a nation. Reader! whoever thou art, remember this; and in thy sphere practise virtue thyself, and encourage it in others.

"P. HENRY."

APPENDIX I.

DESCENDANTS TO THE FOURTH GENERATION OF SARAH WINSTON, DAUGHTER OF ISAAC WINSTON (A WELSH EMIGRANT) AND MARY DABNEY.[1]

SARAH WINSTON, married, first, Colonel John Syme, a Scotch emigrant; issue:

I. John, m. 1st, Miss Meriwether; issue:
  i. Sarah, m. Col. Samuel Jordan Cabell; issue:
    1. William Syme, m. Elizabeth Payne; issue:
      a. Alexander Spotswood, m. Miss Payne.
      b. Mildred, m. 1st, Joseph K. Green; 2d, Maj. Lewis Cartwright; had by both marriages issue.
      c. Samuel J., m. Mrs. E. S. Avery; issue.
      d. Paulina R., m. George Whitlock; issue.
      e. Margaret W., m. John Higginbotham; issue.
      f. Patrick Henry, m. Miss Lee; issue.
      g. George W., m. Mary A. Anthony; issue.
      h. Nicholas Meriwether, d. unm.
      i. Emeline S., m. 1st, B. E. Scruggs; 2d, Rev. Andrew Hart; no issue.
  ii. Mildred, d. unm.
  iii. John, d. unm.
  iv. Nicholas, m. Miss Johnson; issue.

John Syme, m. 2d, Sarah Hoops; issue.

  v. Jane Isabella, m. 1st, John Thompson; 2d, John T. Swann.
  vi. Ann Maria, m. Jonah Riddick; issue.
  vii. Elizabeth, m. George A. Fleming; issue:
    1. William, d. unm.
    2. Thomas, d. unm.
    3. Adam, d. unm.

[1] Many of the following list have been distinguished, and some greatly so, but for fear of doing injustice to those not so well known to the author, he has simply given titles, when known, leaving it to the intelligent reader to recognize those who have attained eminence.

4. John S., m. Indiana Bowden; issue:
   a. William Bowden, m. Caledonia Anderson; issue.
   b. Frederick Nasau, d. unm.
   c. John S., m. Elizabeth Y. Barret; no issue.
5. George Augustus, m. Mary Coleman; issue:
   a. Mary E., m. Samuel Schooler; issue.
   b. Malcolm W., m. Miss Deane; issue.
   c. Sarah Jane, m. Prof. Leroy Brown; issue
   d. George W., m. Ann Ambler; issue.
   e. Vivian M., m. Miss White; issue.
6. Martha, d. unm.
7. Syme, m.; issue.

SARAH WINSTON, married, second, Colonel John Henry, a Scotch emigrant; issue:

II. William, Major in the Revolution, m. Alice Taylor; issue a daughter, who left no issue.

III. Patrick, m. 1st, Sarah Shelton; issue:

i. Martha, m. Col. John Fontaine; issue:
1. Patrick Henry, m. Nancy Miller; issue:
   a. Edward, m. A. Swisher.
   b. Charles D., m. S. Dandridge.
   c. Martha, m. W. Perkins.
   d. Nancy, m. J. Brooke.
   e. Elizabeth, m. E. Winston.
   f. Mary B., m. Jesse Perkins.
2. Charles D., m. Nancy Carrington.
3. Martha H., m. N. W. Dandridge; issue:
   a. Charles F., m. McGehee.
   b. William F., m. Stith.
   c. Anna, m. W. Hereford.
   d. Martha, m. R. Bolton.
   e. Henry.
   f. Nathaniel West, m. H. Wylie.
   g. Rosalie, m. W. D. Bradford.
4. William Winston, m. Martha Dandridge; issue:
   a. William Spotswood, m. Sarah S. Aylett; issue.
   b. Patrick Henry, m. Sarah Cole; issue.
   c. Sarah Ann, m. E. B. Redd; issue.

ii. John, m.; issue:
1. Edmund, m.; issue:
   a. John.
   b. Martha.
   c. Patrick.
   d. Edmund.
   e. Richard.

f. Winston.
g. William.
h. Fayette.
i. Charles.
j. S. Ann.
k. Nathaniel.
l. Virginia, m. Hinsworth.
m. Letitia.

iii. William; no issue.

iv. Anne, m. Judge Spencer Roane; issue:
1. William Henry, U. S. Senator, m. 1st, Selden; no issue; m. 2d, Sarah Ann Lyons; issue:
a. Sarah, m. Edward C. Harrison; issue.
2. Patrick, d. without issue.
3. Fayette, d. without issue.
4. Patrick Henry, m. ; issue.
5. Julia ; no issue.
6. Anne ; no issue.

v. Elizabeth, m. Philip Aylett; issue:
1. Philip, m. Judith Page Waller; issue:
a. Patrick Henry, m. Emily Rutherford; issue.
b. Benjamin W.
c. Cora Dandridge.
d. Pattie W., m. 1st, Dr. P. H. Cabell; 2d, Mr. Bliss; 3d, H. Ware; no issue now living.
e. Rosalie, m. N. D. Sampson; issue.
f. William R., m. Alice R. Brockenbrough; issue.
g. Anne Henry.
2. Patrick Henry, unm.
3. William.
4. Martha D., m. Capt. Edward Duncan.
5. Anna Henry, m. Thomas Moore; issue:
a. Anna H., m. W. G. Gwathmey.
b. Elizabeth, m. Melton.
6. Sarah Shelton, m. Wm. Spotswood Fontaine; issue:
a. William Winston, m. Mary Burroughs; issue.
b. Maria D., m. Dr. I. H. Redd; no issue.
c. Patrick Henry, m. N. E. Redd; issue.
d. Philip Aylett, unm.
e. Charles D., unm.
f. Sarah, m. Henry Sampson; issue.
7. Mary Macon, m. Philip Fitzhugh; issue:
a. Patrick H., m. Mary Christian; issue.
b. Elizabeth, m. Col. Robert Curtis; issue.

c. Lucy, m. Samuel C. Redd ; issue.
d. John (Major in Mexican War), m. Hattie Bullitt ; issue.
e. Philip A., m. Georgia Tankard ; issue.
f. Edwin (killed in Central America following Gen. Walker).
g. Lafayette H., m. E. Semple ; issue.
h. Thaddeus, m. Julia Horsey ; issue.
i. Mary.

vi. Edward, d. unm.

Patrick Henry, m. 2d, Dorothea Dandridge ; issue :

vii. Dorothea Spotswood, m. George D. Winston ; issue :

1. Edmund, m. Louisa Fontaine ; issue :
   a. William.
   b. Nancy.
   c. Dorothea.
   d. Patrick H.
2. William, unm.
3. Edward, m. Susan Reynolds ; issue :
   a. Prior.
   b. Sallie B., m. Charles Dandridge ; no issue.
   c. Dorothea.
4. Sallie Butler, m. Charles Dandridge ; no issue.
5. Fayette, m. Martha Dix ; issue :
   a. Lucy, m. Hoffman ; issue.
   b. Elvira, m. Bishop J. C. Granberry ; issue.
6. Patrick Henry, unm.
7. George, unm.
8. James, unm.
9. Elvira Virginia, m. Jas. W. Crenshaw ; issue :
   a. Virginia, m. Jas. W. Harper ; issue.
   b. Elvira, m. Jas. C. Marvin ; issue.
   c. Sallie Winston, m. John Miller ; issue.
   d. Dorothea E., m. David F. Smyer ; no issue.
   e. Patrick H., m. Lula Mack ; issue.

viii. Sarah Butler, m. 1st, Robert Campbell, brother of the poet Thomas Campbell ; no issue ; m. 2d, Alexander Scott ; issue :

1. Henrietta, m. Wm. H. Bailey ; issue.
2. Catherine, m. Dr. Robert Scott ; issue.
3. Patrick Henry, m. Mary Yancey ; issue.

ix. Martha Catherine, m. Edward Henry ; issue :

1. Dorothea, d. unm.

x. Patrick, m. Elvira Cabell, daughter of Wm. Cabell, of Union Hill ; issue :

1. Elvira, m. Wm. H. Clark ; issue :
   a. Elvira, m. Augustine Claiborne ; issue.
   b. Nannie, m. Thos. Bruce ; issue.
   c. John, m. Miss Coleman ; issue.
   d. Patrick, d. unm.
   e. Eliza, m. Alfred Shields ; no issue.
   f. Martha, m. Lyle Clark ; issue.
   g. Ellen, m. George Lee ; issue.
   h. Rosa, m. Mr. Wilkins.

xi. Fayette, m. Miss Elcan ; no issue.

xii. Alexander Spotswood, m. Paulina J. Cabell ; issue :
1. George Lafayette, m. Margaretta Mason ; issue :
   a. John, unm.
   b. Marion F., m. Fanny Henry ; issue.
2. John Robert, m. Lizzie Edwards ; issue :
   a. Sallie S., unm.
   b. William K., m. Fanny Harper ; issue.
   c. Lizzie, m. Reuben Witcher ; issue.
   d. Fanny, m. Marion F. Henry ; issue.
   e. Daniel, unm.
   f. Patrick, m. Mary Anderson.
   g. Gillie, unm.
   h. Nettie unm.
3. Paulina, m. Bartlett Jones ; issue :
   a. Cabell H.
4. Patrick, m. Clara F. Yancey ; no issue.
5. Sally Winston, m. Dr. Geo. C. Carrington ; issue :
   a. J. Mettauer, m. Fanny Toot ; issue.
   b. Sue Cabell, m. Rev. A. Y. Hundley ; issue.
   c. Charles C., m. Sally H. French ; issue.
   d. Sally C., m. J. W. F. Bealle ; issue.
   e. Richard B., m. Ida Harrison ; no issue.
   f. Walter C., m. Nettie Bauhan.
6. Lewis Cabell, d. unm.
7. Laura S., d. unm.
8. Maria Antoinette, m. A. L. Hambrick ; no issue.
9. Marion F., m. Samuel Tyree ; no issue.

xiii. Nathaniel, m. Virginia Woodson ; issue :
1. Captain Patrick M., m. Susan Robertson ; issue :
   a. Sallie, m. Davis.
   b. Emma.
   c. Victoria.
2. Lucy, m. 1st, John Cardwell ; issue :
   a. Wyatt Henry, unm.
   b. Mary Virginia, m. P. Peck ; issue.

c. Wiltshire, m. Elizabeth Arney ; issue.
d. Elvira, unm.
e. Annotte Leslie, m. Henry Curtis ; issue.
f. John, m. Ellen Esmack ; issue.
g. William Wirt Henry, m. Rachel Shriner ; issue.

Lucy, m. 2d, Chas. Rosser ; no issue.
3. Mary, m. Garrett.
4. Martha, m. Ward.
5. Dorothea V., m. Beasley.

xiv. Richard, died in infancy.
xv. Edward Winston, m. Jane Yuille ; issue :
1. Dr. Thomas Y., m. Miss Cunningham ; issue.
2. Patrick Lafayette, m. Miss Tillinghast ; no issue.
3. Maria Rosalie, m. Dr. Wm. B. Lewis ; issue :
a. Louisa, m. Thos. W. Branch ; issue.
b. William, m. Lucy Easly ; issue.
c. E. W. Henry, m. Rosa D. Dickinson ; issue.
d. Anne Page, m. Jno. W. Collins ; issue.
e. Alexander S., d. unm.
4. Sarah, m. Wm. Armistead ; issue :
a. Adelia.
b. Edward Winston.
5. Lucy Dorothea, m. Octave Leighton ; issue :
a. Fayetta.
b. Alberta.
6. Celine, m. Robert Catlett ; issue :
a. Winston, d.
b. Robert Catlett, m. Jennie Daniel ; issue.
7. Ada B., m. John G. Smith ; issue :
a. Lucy, d. unm.
b. Rosalie, m. Wm. Smith ; no issue.
c. Georgia, m. Cobb.
d. Sarah, d. unm.
8. Edward Winston, m. Anne L. Ely ; issue :
a. D. Yuille.
b. Fannie.

xvi. John, m. Elvira McClelland (g. d. of Col. Wm. Cabell, of Union Hill) ; issue :
1. Margaret Ann, m. Wm. A. Miller ; issue :
a. Ella Henry.
b. Florence, m. John C. Dabney ; issue.
c. John Henry, m. Diana Hamilton.
d. David, d. unm.
e. William Price.

f. Rosa Cabell.
g. William Wirt.

2. Elvira McClelland, m. 1st, J. A. Higginbotham, no issue; m. 2d, Alexander F. Taylor; issue:
   a. Robert.
3. William Wirt, m. Lucy Gray Marshall; issue:
   a. Elizabeth, m. James Lyons, jr.; issue.
   b. Lucy Gray, m. Mathew B. Harrison; issue.
   c. William Wirt.
   d. James Marshall.
4. Thomas Stanhope, m. Mary Gaines; issue:
   a. Mary.
   b. Thomas Stanhope.
   c. Robert Gaines.
5. Laura, m. Dr. Jas. Carter; d. without issue.
6. Emma Cabell, m. Maj. Jas. B. Ferguson; issue:
   a. Elvira.
   b. James B., m. Endora Horner; issue.

IV. Jane, m. Col. Samuel Meredith; issue:

i. Samuel, m. Elizabeth Breckenridge; issue:
1. Jane, unm.
2. Letitia, m. Col. W. S. Dallam.
3. Elizabeth, m. James Coleman.
4. Mary Cabell, m. Robert Breckenridge; issue.
5. Sarah, unm.

ii. Sarah, m. Col. William Armistead; no issue.

iii. John Henry, unm.

iv. Jane Henry, m. Hon. David S. Garland; issue:
1. Jane Meredith, m. Dr. John P. Cobbs; issue:
   a. Mary, m. Stewart.
   b. Robert Lewis, unm.
   c. John.
   d. Jane Henry, m. Franklin Thwing; issue:
2. Ann Shepherd, m. Dr. G. A. Rose; issue:
   a. Dr. Landon, m. Holbrook.
3. Sarah Armistead, m. William M. Waller; issue:
   a. Jennie, m. William Waller.
4. Samuel Meredith, m. Mildred J. Powell; issue:
   a. Mildred J., m. Col. J. T. Ellis.
   b. Martha H., m. Col. Thomas Whitehead; issue.
   c. James P., m. Lucy V. Braxton; issue.
   d. Ella Rose, m. Henry W. Wills.
   e. Jane, M., m. W. H. Wills.
   f. Sally, unm.
   g. David S., unm.

h. Waller, unm.
i. Paulus Powell, m. Lucy Ellis.
j. Elizabeth P., m. Rev. R. T. Wilson.

5. Mary Rice, m. Col. Edward A. Cabell; issue:
a. William Meredith, m. Mildred K. Eldridge; no issue.
b. David S. G., unm.
c. Dr. Patrick Henry, m. Pattie W. Aylett.
d. Edward Paul, d. in infancy.
e. Jane Meredith, m. Capt. N. H. Van Zandt, U. S. and C. S. Navy; issue.
f. Mayo, d. in infancy.
g. Paul Carrington, unm.

6. William H., m. Miss Eubank.
7. Eliza V., m. George K. Cabell.
8. Patrick Henry, m. Miss Floyd.
9. Louisa F., m. Prof. Landon C. Garland; issue.
10. Caroline E., unm.
11. Martha, unm.

V. Sarah, m. Thomas Thomas, of Bristol, England.

VI. Susannah, m. Genl. Thomas Madison; issue:

i. Agatha, m. Henry Bowyer; issue:

1. John Madison, m. Lucy Lewis, daughter of Genl. Andrew Lewis; no issue.
2. Ann, m. Harold Smythe; issue:
a. Thomas.
b. Alexander.
c. William.
d. Henry.
e. Robinson.
f. Darthula.
g. Agatha.
h. Fanny.
i. Emeline.
3. Mary, m. Charles L. Crockett; issue:
a. Robert, unm.
b. Madison, m. Miss Patton; issue.
c. Lucian, unm.
d. Edward, unm.
e. Maria, m. Dr. Gleaves.
f. Mary, unm.
g. Josephine, unm.
4. Henry Winston, m. Matilda Breckenridge, daughter of Genl. James Breckenridge; issue:
a. Henry, killed in Mexican War.

b. Edmund F.
c. Woodville, m. Anne Woltz.
d. James T.
e. Nannie, m. Dr. Woodson.
f. Elizabeth.
g. Mary, m. Wm. Penn.
h. Letitia.

5. Susan, m. John M. Lewis; issue:
a. Clinton.
b. Elden.
c. John.
d. Ianthe, m. Dr. Woodson, of Texas; issue.

6. Emeline, m. Judge Edward Johnston; issue:
a. Henry, m.; issue.

ii. Patrick Henry, d. unm.

VII. Mary, m. Luke Bowyer; no issue.

VIII. Anne, m. Colonel William Christian; issue:

i. John Henry, d. unm.

ii. Priscilla, m. Alexander Scott Bullitt; issue:

1. Anne, m. John Howard; issue:
a. Wm. B., m. Maria Strother; issue.
b. Anne Christian, m. Robert G. Courtenay; issue.

2. Helen Scott, m. 1st, Henry Massie; 2d, John L. Martin; 3d, Colonel Marshall Key; no issue.

3. Cuthbert, m. Harriet Willet; issue:
a. Henry M., m. 1st, Julia Anderson; 2d, Mrs. Sarah Paradise; issue.
b. Willet, m.; issue.
c. Cuthbert, m. Helen Willard; issue.
d. Priscilla, m. Archibald A. Gordon; issue.
e. Wm. Grigsby, unm.
f. Helen, m. Dr. James Lowry; issue.
g. Anne Eliza, m. Lafayette Fitzhugh; issue.
h. Harriet, m. John Fitzhugh.

4. William Christian, m. Mildred Ann Fry; issue:
a. Judge Joshua Fry, m. Elizabeth R. Smith; issue.
b. Alexander Scott, d. unm.
c. John C., m. Therese Langhorne; issue.
d. Martha Bell, d. unm.
e. Susan Peachy, m. Hon. Archibald Dixon; issue.
f. David Bell, d. unm.
g. Helen Martin, m. Dr. Henry Cheneworth; issue.
h. Thomas Walker, m. Anne P. Logan; issue.
i. Henry Massie. m. Mary L. Frederick; no issue.

iii. Sarah Winston, m. John W. Warfield; issue:
1. Anne, m. Blair; issue:
a. Warfield; no issue.
iv. Elizabeth, m. Richard Dickerson; issue:
1. Anne, m. 1st, Aldritch; 2d, Joseph Fore; issue.
v. Anne H., m. Governor John Pope; issue.
vi. Dorothea, m. Dr. Fishback; no issue.

IX. Elizabeth, m. 1st, General William Campbell, commander at King's Mountain; issue:
i. Sarah B., m. Francis Preston; issue:
1. William C. Preston, U. S. Senator, and President of University of So. Car., m.; no issue.
2. Elizabeth Henry, m. Genl. Edward Carrington; issue:
a. Genl. Edward C., m. Miss Swope; issue.
b. Nannie P., m. H. P. Cochran; issue.
c. Virginia P., unm.
d. Col. Jas. McDowell.
3. Susan S., m. Gov. James McDowell; issue:
a. Dr. James, m. Lizzie Brandt; issue.
b. Mary, m. Rev. Mr. Ross; no issue.
c. Susan, m. Charles S. Carrington; issue.
d. Sarah C. P., m. Rev. John Miller; issue.
e. A. Sophonisba, m. James Massie; issue.
f. Margaret Canty, m. Prof. Chas. S. Venable; issue.
g. Eliza H. P., m. Bernard Wolff; issue.
4. Anne Sophonisba, m. Rev. Robert Jefferson Breckenridge; issue:
a. Francis Preston, d. in infancy.
b. Louisiana Hart, d. in infancy.
c. Mary Cabell, m. Wm. Warfield; issue.
d. John, d. in boyhood.
e Sally Campbell, m. Rev. Geo. Morrison; issue.
f. Robert Jefferson (Col. C. S. A.), m. C. Morrison; issue.
g. Marie Lettice, m. Rev. W. C. Handy.
h. Colonel Wm. Campbell Preston, LL.D., m. 1st, Lucretia Clay; 2d, Issa Desha; issue.
i. Sophonisba P., m. Dr. T. Steele; issue.
j. Genl. Joseph Cabell (U. S. A.), m. L. Dudley; issue.
k. Charles H. (Capt. U. S. A.), unm.
5. Marie T. C., m. John M. Preston; issue:
a. John M., m. Margaret Lewis; issue.
b. Chas. H. C., m. Lucy Lewis.

6. Genl. John S., m. Caroline Hampton; issue:
   a. Mary P., m. Darby; issue.
   b. Sally B., m. Lowndes; issue.
   c. John P., m. C. Huger; issue.
   d. Susan H., m. Frost; issue
7. Thomas L., m. 1st, E. Watts; 2d, Anne Saunders; no issue.
8. Margaret B. F., m. Genl. Wade Hampton; issue:
   a. Sally C. P., m. Col. John C. Haskell; issue.
   b. Wade, m. ; no issue.

Elizabeth Henry, m. 2d, Genl. Wm. Russell; issue:

ii. Jane Robertson, m. Dr. Wm. P. Thompson; issue:
1. Eliza, m. Williams; no issue.
2. Maria, m. Rev. D. R. McAnally; issue:
   a. Maria, m. Carter; issue.
   b. Two sons.
3. Three sons.

X. Lucy, m. Valentine Wood (Colonel in the Revolution); issue:
i. Henry, d. unm.
ii. Martha, m. 1st, Maj. Stephen Southall (a distinguished soldier in the Revolution); issue:
1. Dr. Philip Turner, m. 1st, Frances Lockett; issue:
   a. Stephen O. (Prof. of law in University of Va.); d. unm.
   b. Dr. Philip F., m. Eliza L. Goode; issue.

Dr. Philip Turner Southall m. 2d, Eliza Webster; issue:
   c. Anthony W., d. unm.
   d. Joseph W. (Surgeon C. S. A.), m. Rosa Hatchett; no issue.
   e. Giles M., d. in C. S. A., unm.
   f. Frank W. (Capt. of Cavalry C. S. A.), m. Ellen O'Sullivan; issue.
   g. Valentine W. (Lt. C. S. A.), killed at Gettysburg.
   h. John T., m. Fannie Walthall; issue.
   i. William Wood, m. Janie Mosely; issue.
   j. Edward Henry.
   k. Lucy Henry, m. 1st, Wm. M. Wood, issue; m. 2d, Henry Miller; no issue.
2. Valentine Wood, m. Martha Cocke; issue:
   a. William H., m. Elizabeth A. Allen; issue.
   b. James C., m. Eliza Sharp; issue.
   c. Mary M., m. 1st, John Thompson Brown; 2d, Prof. C. S. Venable, of University of Va.; issue.
   d. Lucy, m. Charles Sharp; issue.
   e. S. Valentine, m. Emily G. Voss; issue.

3. Lucy Henry, m. Charles Cutts (U. S. Senator); issue:
   a. Samuel H., m. Maria Southall; issue.
   b. Stephen Southall, m. Anne Walker.
   c. Martha Henry, d. unm.
4. Maria Wood, m. Nicholas B. VanZandt; issue:
   a. Dolly Payne, m. John W. DeKrafft; issue.
   b. George C., m. Sarah Barbour; issue.
   c. Rosalie M., m. 1st, Canfield Smith; 2d, James M. Smith; no issue.
   d. Virginia.
   e. Nicholas H. (Capt. in the U. S. and C. S. Navy), m. Jane M. Cabell; issue.
   f. Joseph A., m. Gibertine Livingston; issue.
5. William Wood, d. unm.

Martha Wood, m. 2d, Geo. Frederick Stras; issue:

6. Emily, d. unm.
7. Joseph, m. Elinor L. Higginbotham; issue:
   a. Joseph, m. Mary E. Spotts; issue.
   b. Beverly W., m. Harriet Spotts; issue.
   c. Martha E., m. Arthur D. W. Walton.

iii. Mary, m. Judge Peter Johnston; issue:

1. John Warfield, m. ; issue:
   a. John W. (Judge and U. S. Senator), m. N. Floyd; issue.
2. General Peter Carr, unm.
3. Charles Clement, m. E. M. Preston; issue:
   a. J. Preston (Lt., U. S. A., fell at Cherubusco), unm.
   b. Elizabeth, m. Judge Robt. W. Hughes; issue.
4. Valentine, died in infancy.
5. Edward William, twice m.; no issue.
6. Algernon Sydney, unm.
7. Beverly Randolph, unm.
8. General Joseph Eggleston, of U. S. A. and C. S. A., m. Lydia McLane; no issue.
9. Benjamin Franklin, unm.
10. Jane Wood, m. H. Michel; issue:
    a. Mary L., m. John F. Binckley; issue.
    b. Dr. William M., m. ; issue.
    c. Susan S., m. Major Taliaferro; issue.

iv. Valentine, d. unm.

v. Lucy, m. Edward Carter; issue:

1. Mary Champe, m. Wm. H. McCulloch; issue:
   a. Edward.
   b. Robert.
   c. William.

d. Lucy C., m. Col. R. E. Acock; issue.
e. Champe, m. Emma Basset; issue.
f. Bettie.
g. Richard.
h. Charles.
i. George.

2. Champe, m. Miss Montgomery; issue:
a. Thomas.
b. Edward H. m. 1st, S. Bostwick; 2d, H. Rogers; issue.
c. Champe, m. Victoria Randolph.
d. Richard, m. Olivia Stanchfield; issue.
e. Mary.
f. Charles L., m. Louisa Wright; issue.
g. Josiah, m. ; issue.

3. Peter Johnston, m. Julia Taylor; issue.
a. Peter, m. ; issue.

vi. John Henry, m. Elizabeth Spencer; issue:
1. Mary E., m. Mr. Grinnell.

CORRECTION.

In volume 1, page 1, line 5, read John for James.

APPENDIX II.

LIST OF THE HOUSE OF BURGESSES WHEN PATRICK HENRY TOOK HIS SEAT IN MAY, 1765.

The author is indebted to Mr. Worthington C. Ford, of Brooklyn, New York, for this list so far as it is taken from an almanac of 1765; delegates from new counties and to fill vacancies have been added.

Counties.	*Delegates.*	
ACCOMACK.....	THO. PARRAMORE,	SOUTHY SIMPSON.
ALBEMARLE.....	THOMAS WALKER,	JOHN FRY.
AMELIA...	DAVID GREENHILL,	THOMAS TABB.
AUGUSTA.....	ISRAEL CHRISTIAN,	JOHN WILSON.
AMHERST.....	WILLIAM CABELL,	CORNELIUS THOMAS.
BRUNSWICK	ISAAC ROWE WALTON,	WILLIAM THORNTON.
BEDFORD	WILLIAM CALLAWAY,	JOHN TALBOT.
BUCKINGHAM.....	ROBERT BOLLING,	JOSEPH CABELL.
CAROLINE.....	JOHN BAYLOR,	EDMUND PENDLETON.
CHARLES CITY ...	WILLIAM KENNON,	BENJAMIN HARRISON.
CHARLOTTE	PAUL CARRINGTON,	THOMAS READ.
CHESTERFIELD....	ARCHIBALD CARY,	RICHARD EPPES.
CULPEPER.....	JAMES BARBOUR,	JOHN FIELD.
CUMBERLAND.....	JOHN FLEMING,	GEORGE CARRINGTON.
DINWIDDIE.....	ROBERT BOLLING,	LEONARD CLAIBORNE, JR.
ELIZABETH CITY..	GEORGE WYTHE,	WILLIAM WAGER.
ESSEX	JOHN UPSHAW,	JOHN LEE.
FAIRFAX.....	GEORGE JOHNSTON,	JOHN WEST.
FAUQUIER	THOMAS MARSHALL,	THOMAS HARRISON.
FREDERICK	GEORGE WASHINGTON,	GEORGE MERCER.
GLOUCESTER.....	THOMAS WHITING,	JOHN PAGE.
GOOCHLAND.....	JOHN PAYNE,	JOSIAS PAYNE.
HALIFAX	NATHANIEL TERRY,	ROBERT WADE.
HAMPSHIRE.....	THOMAS RUTHERFORD,	JAMES MERCER.
HANOVER.....	JOHN SYME,	JAMES LITTLEPAGE.
HENRICO.....	BOWLER COCKE, JR.	PHILIP MAYO.
JAMES CITY.....	LEWIS BURWELL,	PHILIP JOHNSON.
ISLE OF WIGHT...	JAMES BRIDGER,	DOLPHIN DREW.
KING GEORGE....	CHARLES CARTER,	WM. CHAMPE.

Counties.	*Delegates.*	
KING AND QUEEN	JOHN ROBINSON, SR.,	JOHN PENDLETON.
KING WILLIAM	BERNARD MOORE,	CARTER BRAXTON.
LANCASTER	CHARLES CARTER,	RICHARD MITCHELL.
LOUDOUN	FRANCIS LIGHTFOOT LEE,	JAMES HAMILTON.
LOUISA	THOMAS JOHNSON,	PATRICK HENRY.
LUNENBURG	WILLIAM TAYLOR,	HENRY BLAGRAVE.
MECKLENBURG	EDMUND TAYLOR,	ROBERT MUNFORD.
MIDDLESEX	JOHN SMITH,	RALPH WORMELEY.
NANSEMOND	LEMUEL RIDDICK,	WILLIS RIDDICK.
NEW-KENT	RICHARD ADAMS,	BURWELL BASSETT.
NORFOLK	WILLIAM BRADLEY,	THOMAS VEAL.
NORTHUMBERL'D	SPENCER BALL,	RICHARD HULL.
NORTHAMPTON	JOHN HARMANSON,	THOMAS DALBY.
ORANGE	JAMES WALKER,	JAMES TAYLOR.
PRINCE EDW'D	ABNER NASH,	PETER LEGRAND.
PRINCE GEORGE	RICHARD BLAND,	RICHARD BLAND, JR.
PRINCESS ANNE	ANTHONY WALKE,	EDW. HACK MOSELEY.
PRINCE WILLIAM	JOHN BAYLIS,	HENRY LEE.
RICHMOND	JOHN WOODBRIDGE,	LANDON CARTER.
SOUTHAMPTON	JOSEPH GRAY,	BENJAMIN SYMMONS.
SPOTSYLVANIA	FIELDING LEWIS,	BENJAMIN GRYMES.
STAFFORD	WILLIAM FITZHUGH,	THOMAS LUDWELL LEE.
SURRY	HARTWELL COCKE,	THOMAS BAILEY.
SUSSEX	DAVID MASON,	JOHN EDMUNDS.
WARWICK	WILLIAM DIGGES,	WILLIAM HARWOOD.
WESTMORELAND	RICHARD LEE,	RICHARD HENRY LEE.
YORK	THOMAS NELSON, JR.,	DUDLEY DIGGES.

COLLEGE OF WILLIAM AND MARY ..... MR. MANN PAGE.
JAMESTOWN ..... MR. EDWARD CHAMPION TRAVIS.
NORFOLK BOROUGH ..... MR. JOSEPH HUTCHINGS.
WILLIAMSBURG ..... MR. ATTORNEY, JOHN RANDOLPH.

APPENDIX III.

A Declaration of Rights made by the Representatives of the good People of Virginia, assembled in full and free Convention; which Rights do pertain to them, and their Posterity, as the Basis and Foundation of Government.

[Unanimously adopted, June 12, 1776.]

1. That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

2. That all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.

3. That government is, or ought to be, instituted for the common benefit, protection, and security, of the people, nation, or community; of all the various modes and forms of government, that is best, which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against danger of mal-administration; and that, when any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, unalienable, and indefeasible right, to reform, alter, or abolish it, in such manner as shall be judged most conducive to the public weal.

4. That no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community,

but in consideration of public services; which, not being descendible, neither ought the offices of Magistrate, Legislator, or Judge, to be hereditary.

5. That the Legislative and Executive powers of the state should be separate and distinct from the judiciary; and that the members of the two first may be restrained from oppression, by feeling and participating the burthens of the people, they should, at fixed periods, be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by frequent, certain, and regular elections, in which all, or any part of the former members, to be again eligible, or ineligible, as the laws shall direct.

6. That elections of members to serve as representatives of the people, in Assembly, ought to be free; and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community, have the right of suffrage, and cannot be taxed or deprived of their property for public uses, without their own consent, or that of their representatives so elected, nor bound by any law to which they have not in like manner, assented for the public good.

7. That all power of suspending laws, or the execution of laws, by any authority without consent of the representatives of the people, is injurious to their rights and ought not to be exercised.

8. That in all capital or criminal prosecutions a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his favor, and to a speedy trial by an impartial jury of his vicinage, without whose unanimous consent he cannot be found guilty, nor can he be compelled to give evidence against himself; that no man be deprived of his liberty except by the law of the land, or the judgment of his peers.

9. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

10. That general warrants, whereby an officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offence is not particularly described and supported by evidence, are grievous and oppressive, and ought not to be granted.

11. That in controversies respecting property, and in suits between man and man, the ancient trial by jury is preferable to any other, and ought to be held sacred.

12. That the freedom of the press is one of the greatest bulwarks of liberty, and can never be restrained but by despotick governments.

13. That a well-regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defence of a free state; that standing armies, in time of peace, should be avoided, as dangerous to liberty; and that, in all cases, the military should be under strict subordination to, and governed by, the civil power.

14. That the people have a right to uniform government; and therefore, that no government separate from, or independent of, the government of Virginia, ought to be erected or established within the limits thereof.

15. That no free government, or the blessing of liberty, can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles.

16. That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practise Christian forbearance, love, and charity towards each other.

APPENDIX IV.

THE author received the following information from his father, John Henry, the youngest son of Patrick Henry, in regard to the Sully portrait, from which the etching in the first volume has been made.

During the trial of the British Debt cause in the United States Court at Richmond, a French artist attended, and painted a miniature of Patrick Henry, representing him as speaking. The artist presented the miniature, set in gold, to Mr. Henry, who afterward gave it to the wife of his half-brother, Mrs. John Syme. While Mr. Wirt was preparing his Life of Mr. Henry, he was allowed by the Flemings, descendants of Colonel Syme, to have a portrait painted by Thomas Sully, of Philadelphia, from this miniature. The artist copied the miniature with some slight alterations as to the wig, suggested by Chief-Justice Marshall. The portrait when completed was entrusted to Mr. James Webster, the publisher of Mr. Wirt's "Life of Patrick Henry," in order that it might be engraved for the forthcoming volume. Afterward Mr. Wirt, while Attorney-General of the United States, presented the portrait to John Henry, who was living at Red Hill with his mother. He was too young when his father died to have remembered him, but his mother and older brothers and sisters, pronounced it the best likeness they ever saw of Patrick Henry. John Henry gave this portrait at his death to the author.

As further evidence of its faithfulness, the following certificates are reproduced. They were given by men who had known Mr. Henry well. Judge Marshall and Mr. Corbin had served with him in several deliberative bodies, and the Rev. John Buchanan was the Episcopal rector in Richmond.

I have been shown a painting of the late Mr. Henry painted by Mr. Sully now in possession of Mr. Webster which I think a good likeness.

J Marshall
Dec. 30th 1816

I agree with Mr. Marshall in his opinion above expressed

Francis Corbin
Jany 2d 1817.

I agree with the above gentlemen in their opinion respecting the late Mr Henry's likeness

John Bu Nahan
7th Jany 1817